

An Act

HOUSE BILL 24-1260

BY REPRESENTATIVE(S) Duran and Hernandez, Bacon, Brown, deGruy Kennedy, Jodeh, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Mabrey, Martinez, Mauro, Ortiz, Parenti, Rubin, Story, Titone, Vigil, Woodrow, Young, Amabile, Boesenecker, Clifford, Daugherty, English, Epps, Froelich, Garcia, Hamrick, Herod, Lukens, Marvin, Ricks, Sirota, Velasco, Weissman, Willford;
also SENATOR(S) Danielson, Cutter, Gonzales, Hinrichsen, Kolker, Michaelson Jenet, Mullica, Buckner, Exum, Fields, Jaquez Lewis, Marchman, Sullivan.

CONCERNING A PROHIBITION AGAINST DISCIPLINING AN EMPLOYEE FOR REFUSING TO PARTICIPATE IN EMPLOYER SPEECH, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

- (a) Workers are the backbone of the state and Colorado businesses;
- (b) Political and religious coercion in the workplace is a growing

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

problem for workers in all industries, of all backgrounds, and across the political spectrum;

(c) Meetings, such as captive audience meetings, that violate worker protections should not be allowed;

(d) According to a study published by Harvard University, one in four workers in the United States has been contacted by their employer regarding a political matter, and of these workers, twenty percent received messages that included a threat of retaliation;

(e) Captive audience meetings typically include threats of the workplace shutting down or demotion for joining a union or not agreeing with the employer, promises of bonuses or raises in exchange for not joining the union, disparaging union organizers, and more;

(f) The requirement to attend captive audience meetings or engage in related conversations comes in many forms, including the threat of retaliation and discipline;

(g) All employees in Colorado should be protected from political and religious coercion in the workplace and should be able to exercise their rights to opt out of political or religious meetings without fear of retaliation from an employer, as long as the meetings are not required by law and are not essential to the employee's job performance; and

(h) While it is important to provide protections to employees, the protections should not interfere with the ability of employers to provide diversity, equity, and inclusion training to employees.

(2) The general assembly further declares that employees should have the following rights and should be protected from retaliation, including discipline or termination, if they choose to exercise these rights:

(a) The ability to refuse to attend or participate in an employer-sponsored meeting where there is religious or political content; and

(b) The ability to refuse to listen to speech or view communications where religious or political matters are communicated.

(3) The general assembly further declares that the protections in this act are not intended to:

(a) Interfere with an employer's right to free speech;

(b) Prohibit an employer's obligation to provide legally required trainings, such as sexual harassment training, or employer-initiated trainings related to diversity, equity, and inclusion;

(c) Extend to employees in schools or hospitals run by religious institutions when discussing religious matters; or

(d) Prohibit an employee from performing any aspects of required job duties.

SECTION 2. In Colorado Revised Statutes, **add** 8-2-133 as follows:

8-2-133. Employer - employee - responsibilities - political matters - religious matters - prohibition against discipline or discharge - exceptions - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND EMPLOYMENT.

(b) "EMPLOYEE" MEANS A PERSON EMPLOYED BY AN EMPLOYER.

(c) "EMPLOYER" MEANS THE STATE OR ANY POLITICAL SUBDIVISION, COMMISSION, DEPARTMENT, INSTITUTION, OR SCHOOL DISTRICT OF THE STATE AND EVERY OTHER PERSON EMPLOYING AN INDIVIDUAL IN THE STATE.

(d) "POLITICAL MATTERS" MEANS MATTERS RELATING TO ELECTIONS FOR POLITICAL OFFICE, POLITICAL PARTIES, LEGISLATION, REGULATIONS, AND THE DECISION TO JOIN OR SUPPORT ANY POLITICAL PARTY OR POLITICAL, FRATERNAL, OR LABOR ORGANIZATION OR ANY NONPROFIT ORGANIZATION ESTABLISHED FOR CHARITABLE OR COMMUNITY WELFARE PURPOSES.

(e) "RELIGIOUS MATTERS" MEANS MATTERS RELATING TO RELIGIOUS AFFILIATION AND PRACTICE AND THE DECISION TO JOIN OR SUPPORT ANY

RELIGIOUS ORGANIZATION OR A NONPROFIT ORGANIZATION ESTABLISHED FOR CHARITABLE OR COMMUNITY WELFARE PURPOSES.

(2) (a) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, AN EMPLOYER SHALL NOT SUBJECT OR THREATEN TO SUBJECT AN EMPLOYEE TO DISCIPLINE, DISCHARGE, OR AN ADVERSE EMPLOYMENT ACTION ON ACCOUNT OF THE EMPLOYEE'S REFUSAL TO ATTEND OR PARTICIPATE IN AN EMPLOYER-SPONSORED MEETING CONCERNING RELIGIOUS OR POLITICAL MATTERS OR FOR DECLINING TO LISTEN TO SPEECH OR VIEW RELIGIOUS OR POLITICAL COMMUNICATIONS FROM THE EMPLOYER OR THE AGENT, REPRESENTATIVE, OR DESIGNEE OF THE EMPLOYER.

(b) WITH REGARD TO EMPLOYEES OF THE STATE OF COLORADO, THE PROHIBITIONS IN SUBSECTION (2)(a) OF THIS SECTION APPLY ONLY TO MEETINGS AND COMMUNICATIONS RELATING TO THE DECISION OF A STATE EMPLOYEE TO JOIN OR SUPPORT A FRATERNAL OR LABOR ORGANIZATION.

(3) THIS SECTION DOES NOT PROHIBIT:

(a) AN EMPLOYER, OR AN EMPLOYER'S AGENT, REPRESENTATIVE, OR DESIGNEE, FROM COMMUNICATING TO THE EMPLOYER'S EMPLOYEES REGARDING ANY INFORMATION THAT THE EMPLOYER IS REQUIRED BY LAW, A COURT ORDER, OR AN AGREEMENT WITH A GOVERNMENTAL ENTITY TO COMMUNICATE TO EMPLOYEES, BUT ONLY TO THE EXTENT OF THE LEGAL REQUIREMENT;

(b) AN EMPLOYER, OR AN EMPLOYER'S AGENT, REPRESENTATIVE, OR DESIGNEE, FROM COMMUNICATING TO THE EMPLOYER'S EMPLOYEES OR FROM REQUIRING AN EMPLOYEE TO LISTEN TO ANY INFORMATION OR TRAINING THAT IS NECESSARY FOR SUCH EMPLOYEES TO PERFORM THEIR JOB DUTIES OR THAT IS REQUIRED TO PREVENT OR ADDRESS UNLAWFUL DISCRIMINATION AND HARASSMENT BASED ON A PROTECTED CLASS;

(c) AN EMPLOYER FROM REQUIRING THAT AN EMPLOYEE ATTEND A MEETING OR EVENT, LISTEN TO SPEECH, OR VIEW COMMUNICATIONS CONCERNING RELIGIOUS OR POLITICAL MATTERS AS NECESSARY FOR THE EMPLOYEE TO PERFORM THEIR LAWFULLY REQUIRED JOB DUTIES;

(d) AN INSTITUTION OF HIGHER EDUCATION, OR AN AGENT, REPRESENTATIVE, OR DESIGNEE OF AN INSTITUTION OF HIGHER EDUCATION,

FROM MEETING WITH OR PARTICIPATING IN ANY COMMUNICATIONS WITH THE INSTITUTION OF HIGHER EDUCATION'S EMPLOYEES THAT ARE PART OF COURSEWORK, SYMPOSIA, OR AN ACADEMIC PROGRAM AT THE INSTITUTION;

(e) A K-12 PUBLIC OR PRIVATE SCHOOL OR SCHOOL DISTRICT, OR AN AGENT, REPRESENTATIVE, OR DESIGNEE OF A K-12 PUBLIC OR PRIVATE SCHOOL OR SCHOOL DISTRICT, FROM MEETING WITH OR PARTICIPATING IN ANY COMMUNICATIONS WITH THE K-12 PUBLIC OR PRIVATE SCHOOL'S OR SCHOOL DISTRICT'S EMPLOYEES WHEN THE RELIGIOUS OR POLITICAL MATTER IS RELATED TO COURSEWORK AT THE K-12 PUBLIC OR PRIVATE SCHOOL; OR

(f) VOLUNTARY CONVERSATIONS BETWEEN EMPLOYEES OR BETWEEN AN EMPLOYEE AND AN AGENT, REPRESENTATIVE, OR DESIGNEE OF AN EMPLOYER, IF PARTICIPATION IN SUCH CONVERSATIONS IS NOT REQUIRED.

(4) (a) AN AGGRIEVED PERSON MAY SEEK RELIEF FOR A VIOLATION OF THIS SECTION BY:

(I) FILING A COMPLAINT WITH THE DEPARTMENT; OR

(II) FILING AN ACTION IN A DISTRICT COURT OF COMPETENT JURISDICTION TO ENFORCE THIS SECTION.

(b) AN AGGRIEVED PERSON SEEKING RELIEF FOR A VIOLATION OF THIS SECTION SHALL:

(I) EXHAUST ALL AVAILABLE ADMINISTRATIVE REMEDIES BEFORE FILING AN ACTION IN DISTRICT COURT; AND

(II) FILE A COMPLAINT WITH THE DEPARTMENT AGAINST AN EMPLOYER WITHIN ONE YEAR AFTER AN ALLEGED VIOLATION OF THIS SECTION.

(c) ON OR BEFORE THE DATE THE DEPARTMENT MAKES A COMPLAINT FORM PUBLICLY AVAILABLE, AN AGGRIEVED PERSON MAY FILE A COMPLAINT FOR A VIOLATION OF THIS SECTION WITH THE DEPARTMENT IN ANY FORM, INCLUDING BY UNITED STATES MAIL OR ELECTRONIC MAIL.

(d) AFTER THE DATE THE DEPARTMENT MAKES A COMPLAINT FORM PUBLICLY AVAILABLE, AN AGGRIEVED PERSON SHALL FILE A COMPLAINT

ONLY BY COMPLETING THE REQUIRED FORM.

(e) AFTER RECEIVING A COMPLAINT, THE DEPARTMENT SHALL:

(I) INVESTIGATE THE COMPLAINT FILED AGAINST THE EMPLOYER FOR AN ALLEGED VIOLATION OF THIS ARTICLE 2; OR

(II) AUTHORIZE AN AGGRIEVED PERSON TO PROCEED WITH AN ACTION IN DISTRICT COURT.

(f) (I) ON AND WITHIN SIXTY DAYS AFTER THE DATE A COMPLAINT IS FILED AND BEFORE THE DEPARTMENT ISSUES A WRITTEN DETERMINATION, AN AGGRIEVED PERSON MAY REQUEST AND THE DEPARTMENT SHALL GRANT SUCH AGGRIEVED PERSON WRITTEN AUTHORIZATION TO PROCEED WITH AN ACTION IN DISTRICT COURT.

(II) AT THE TIME THAT THE AGGRIEVED PERSON FILES AN ACTION IN DISTRICT COURT, THE AGGRIEVED PERSON SHALL PROVIDE WRITTEN NOTICE OF THE FILING TO THE DEPARTMENT AND THE DEPARTMENT SHALL TERMINATE ITS INVESTIGATION.

(III) AN AGGRIEVED PERSON WHO RECEIVES WRITTEN AUTHORIZATION PURSUANT TO THIS SUBSECTION (4) IS DEEMED TO HAVE EXHAUSTED ADMINISTRATIVE REMEDIES.

(g) IF, AFTER CONDUCTING AN INVESTIGATION, THE DEPARTMENT:

(I) DOES NOT FIND A VIOLATION, THE DEPARTMENT SHALL PROVIDE THE BASIS FOR ITS DETERMINATION IN WRITING AND AUTHORIZE THE AGGRIEVED PERSON TO PROCEED WITH AN ACTION IN A DISTRICT COURT OF COMPETENT JURISDICTION. THE AGGRIEVED PERSON IS DEEMED TO HAVE EXHAUSTED ALL ADMINISTRATIVE REMEDIES AFTER THE DETERMINATION AND AUTHORIZATION IS ISSUED.

(II) FINDS ONE OR MORE VIOLATIONS, THE DEPARTMENT SHALL PROVIDE THE BASIS FOR THE DETERMINATION IN WRITING AND MAY AWARD THE SAME AFFIRMATIVE RELIEF AS A DISTRICT COURT PURSUANT TO SUBSECTION (4)(j) OF THIS SECTION.

(h) (I) THE DETERMINATION OF THE DEPARTMENT IS A FINAL AGENCY

ACTION PURSUANT TO SECTION 24-4-106, AND, AFTER THE DETERMINATION, SECTION 8-4-113 (2) APPLIES.

(II) THE DETERMINATION OF THE DEPARTMENT MAY BE APPEALED ONLY BY COMMENCING AN ACTION FOR JUDICIAL REVIEW IN THE DISTRICT COURT OF COMPETENT JURISDICTION WITHIN THIRTY-FIVE CALENDAR DAYS AFTER THE DATE OF MAILING OF THE DETERMINATION BY THE DEPARTMENT. JUDICIAL REVIEW IS LIMITED TO APPEAL BRIEFS AND THE RECORD DESIGNATED ON APPEAL.

(i) AN AGGRIEVED INDIVIDUAL MAY, WITHIN ONE HUNDRED EIGHTY DAYS AFTER EXHAUSTING ALL AVAILABLE ADMINISTRATIVE REMEDIES, COMMENCE AN ACTION IN DISTRICT COURT OF COMPETENT JURISDICTION AGAINST AN EMPLOYER FOR A VIOLATION OF THIS SECTION.

(j) IF THE DISTRICT COURT FINDS THAT AN EMPLOYER HAS VIOLATED THIS SECTION, THE COURT MAY ORDER AFFIRMATIVE RELIEF THAT INCLUDES:

(I) THE REINSTATEMENT OF AN AGGRIEVED EMPLOYEE WHO WAS SEPARATED FROM EMPLOYMENT TO THE EMPLOYEE'S FORMER POSITION OF EMPLOYMENT;

(II) THE GREATER OF TEN THOUSAND DOLLARS AWARDED TO THE AGGRIEVED EMPLOYEE OR ACTUAL DAMAGES RESULTING FROM THE VIOLATION, INCLUDING BACK PAY AND BENEFITS TO A REINSTATED EMPLOYEE OR FRONT PAY TO AN EMPLOYEE WHO DOES NOT SEEK REINSTATEMENT;

(III) UP TO TEN THOUSAND DOLLARS IN ADDITIONAL PENALTIES IF THE EMPLOYER HAS ENGAGED IN THE SAME OR SIMILAR VIOLATIONS OF THIS SECTION IN THE SIX MONTHS PRIOR TO THE ALLEGED VIOLATION, WHICH PRIOR VIOLATIONS AFFECTED THE SAME OR SIMILARLY SITUATED EMPLOYEES;

(IV) EQUITABLE RELIEF DEEMED APPROPRIATE BY THE DISTRICT COURT; AND

(V) COURT COSTS AND ATTORNEY FEES INCURRED BY THE AGGRIEVED EMPLOYEE.

(5) FOR AN ALLEGED VIOLATION OF SUBSECTION (2) OF THIS SECTION AGAINST AN EMPLOYER, THE EMPLOYER HAS AN AFFIRMATIVE DEFENSE TO THE ALLEGATION IF THE EMPLOYER ESTABLISHES THAT THE EMPLOYER CONVEYED IN CLEAR AND CONSPICUOUS TERMS THAT THE EMPLOYEE HAD THE OPTION TO LEAVE THE MEETING WHERE THE VIOLATION ALLEGEDLY TOOK PLACE.

(6) THIS SECTION DOES NOT APPLY TO A RELIGIOUS CORPORATION, ENTITY, ASSOCIATION, EDUCATIONAL INSTITUTION, NONPROFIT FAITH-BASED HEALTH SYSTEM, NONPROFIT FAITH-BASED HEALTH FACILITY, OR SOCIETY THAT IS EXEMPT FROM THE REQUIREMENTS OF TITLE VII OF THE "CIVIL RIGHTS ACT OF 1964", 42 U.S.C. SEC. 2000e-1 (a), AS AMENDED, WITH RESPECT TO SPEECH ON RELIGIOUS MATTERS TO EMPLOYEES WHO PERFORM WORK CONNECTED WITH THE ACTIVITIES UNDERTAKEN BY SUCH RELIGIOUS CORPORATION, ENTITY, ASSOCIATION, EDUCATIONAL INSTITUTION, NONPROFIT FAITH-BASED HEALTH SYSTEM, NONPROFIT FAITH-BASED HEALTH FACILITY, OR SOCIETY.

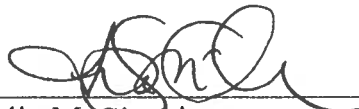
(7) NOTHING IN THIS SECTION IS INTENDED TO CIRCUMVENT ANY EMPLOYER OBLIGATIONS UNDER PART 4 OF ARTICLE 34 OF TITLE 24; TITLE VII OF THE FEDERAL "CIVIL RIGHTS ACT OF 1964", 42 U.S.C. SEC. 2000e ET SEQ.; AS AMENDED; OR ANY OTHER ANTIDISCRIMINATION LAW.

(8) AN EMPLOYER SHALL DISTRIBUTE A NOTICE PROVIDED BY THE DEPARTMENT TO EACH EMPLOYEE TO INFORM THE EMPLOYEE OF THE EMPLOYEE'S RIGHTS PURSUANT TO THIS SECTION. THE EMPLOYER SHALL DISTRIBUTE THE NOTICE IN THE SAME MANNER THAT IT DISTRIBUTES OTHER LEGAL NOTICES, WHETHER BY POSTING AT EMPLOYER WORK SITES OR DISTRIBUTING THROUGH THE EMPLOYER'S E-MAIL SYSTEM OR OTHER REGULARLY USED COMMUNICATION.

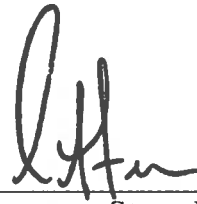
SECTION 3. Appropriation. For the 2024-25 state fiscal year, \$278,564 is appropriated to the department of labor and employment for use by the division of labor standards and statistics. This appropriation is from the general fund and is based on an assumption that the division will require an additional 2.8 FTE. To implement this act, the division may use this appropriation for program costs related to labor standards.

SECTION 4. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate

preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

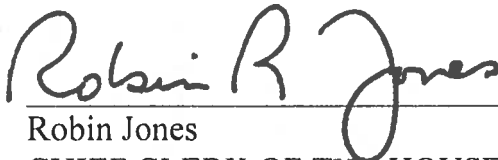


Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES



Steve Fenberg
PRESIDENT OF
THE SENATE

VETO



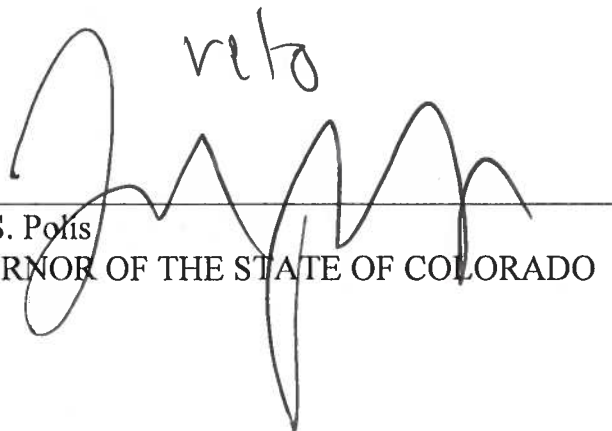
Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES



Cindi L. Markwell
SECRETARY OF
THE SENATE

DIS APPROVED AND VETOED on Friday May 17th 2024 at 4:16 pm
(Date and Time)

veto



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO