

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 22-0416.03 Christy Chase x2008

HOUSE BILL 22-1367

HOUSE SPONSORSHIP

Lontine and Gray, Duran, Bacon, Bennett, Cutter, Esgar, Froelich

SENATE SPONSORSHIP

Winter and Pettersen, Gonzales

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MODIFICATIONS TO LAWS PROHIBITING DISCRIMINATION**
102 **IN EMPLOYMENT PRACTICES, AND, IN CONNECTION THEREWITH,**
103 **REPEALING THE EXCLUSION OF DOMESTIC WORKERS FROM THE**
104 **DEFINITION OF "EMPLOYEE", EXTENDING THE TIME LIMIT FOR**
105 **FILING A CHARGE ALLEGING UNFAIR OR DISCRIMINATORY**
106 **EMPLOYMENT PRACTICES WITH THE COLORADO CIVIL RIGHTS**
107 **COMMISSION, ██████████ REPEALING THE PROHIBITION AGAINST**
108 **CERTAIN DAMAGES IN CASES ALLEGING AGE-BASED**
109 **DISCRIMINATION, AND MAKING AN APPROPRIATION.**

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

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

HOUSE
Amended 2nd Reading
April 27, 2022

applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill amends employment discrimination laws, commonly referred to as the "Colorado Anti-discrimination Act" or "CADA", as follows:

- Expands the definition of "employee" to include individuals in domestic service;
- Extends the time limit to file a charge with the Colorado civil rights commission from 6 months to 300 days after the alleged discriminatory or unfair employment practice occurred; and
- Repeals the prohibition, applicable in age discrimination cases only, against the relief and recovery of certain damages so that the remedies available in employment discrimination claims are consistent, regardless of the type of discrimination alleged.

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

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

4 (a) Under Colorado employment discrimination law in effect
5 before the enactment of House Bill 22-1367:

6 (I) A worker alleging workplace discrimination or harassment is
7 allowed only 180 days to file a complaint with the Colorado civil rights
8 commission, whereas a worker filing a complaint under federal
9 employment discrimination law is allowed 300 days to file a complaint
10 with the federal equal employment opportunity commission;

11 (II) Domestic workers are excluded from the protections afforded
12 other workers; and

13 (III) Workers who are victims of discrimination on the basis of
14 age are not afforded the same remedies that are available to victims of
15 other forms of workplace discrimination; and

16 (b) It is important to enact House Bill 22-1367 to:

1 (I) Eliminate the different deadline for filing a discrimination or
2 harassment complaint under state law to ensure that Colorado workers
3 filing a complaint under state law have the same amount of time to file
4 the complaint as any worker filing a complaint under federal law;

5 (II) Afford domestic workers the same protections against
6 discrimination and harassment in the workplace that are afforded other
7 workers in the state; and

8 (III) Provide all Colorado workers who are victims of
9 discrimination or harassment in the workplace consistent remedies.

10 **SECTION 2.** In Colorado Revised Statutes, 24-34-306, **amend**
11 **(11)** as follows:

12 **24-34-306. Charge - complaint - hearing - procedure -**
13 **exhaustion of administrative remedies.** (11) (a) THE JURISDICTION OF
14 THE COMMISSION OVER THE COMPLAINT CEASES if:

15 (I) Written notice that a formal hearing will be held is not served
16 within ~~two hundred seventy~~ FOUR HUNDRED FIFTY days after the filing of
17 the charge; ~~if~~

18 (II) The complainant has requested and received a notice of right
19 to sue pursuant to subsection (15) of this section; or ~~if~~

20 (III) The hearing is not commenced within the
21 one-hundred-twenty-day period prescribed by subsection (4) of this
22 section. ~~the jurisdiction of the commission over the complaint shall cease,~~
23 ~~and~~

24 (b) IF THE JURISDICTION OF THE COMMISSION CEASES PURSUANT TO
25 SUBSECTION (11)(a) OF THIS SECTION, the complainant may seek the relief
26 authorized under this part 3 and parts 4 to 7 of this ~~article~~ ARTICLE 34
27 against the respondent by filing a civil action in the district court for the

1 district in which the alleged discriminatory or unfair practice
2 occurred. ~~Such~~ THE COMPLAINANT MUST FILE A CIVIL action ~~must be filed~~
3 within ninety days ~~of~~ AFTER the date upon which the jurisdiction of the
4 commission ceased. ~~and if not so filed, it shall be~~ IF THE COMPLAINANT
5 FAILS TO FILE THE ACTION WITHIN THE TIME SPECIFIED IN THIS SUBSECTION
6 (11)(b), THE ACTION IS barred, and the district court ~~shall have no~~ DOES
7 NOT HAVE jurisdiction to hear ~~such~~ THE action. ~~If any party requests the~~
8 ~~extension of any time period prescribed by this subsection (11), such~~
9 ~~extension may be granted for good cause by the commission, a~~
10 ~~commissioner, or the administrative law judge, as the case may be, but the~~
11 ~~total period of all such extensions to either the respondent or the~~
12 ~~complainant shall not exceed ninety days each, and, in the case of~~
13 ~~multiple parties, the total period of all extensions shall not exceed one~~
14 ~~hundred eighty days.~~

15 **SECTION 3.** In Colorado Revised Statutes, 24-34-401, **amend**
16 (2) as follows:

17 **24-34-401. Definitions.** As used in this part 4, unless otherwise
18 defined in section 24-34-301 or unless the context otherwise requires:

19 (2) "Employee" means any ~~person~~ INDIVIDUAL employed by an
20 employer. ~~except a person in the domestic service of any person.~~

21 **SECTION 4.** In Colorado Revised Statutes, 24-34-402, **add** (8)
22 as follows:

23 **24-34-402. Discriminatory or unfair employment practices -**
24 **definition.** (8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
25 SECTION TO THE CONTRARY, IT IS NOT A DISCRIMINATORY OR AN UNFAIR
26 EMPLOYMENT PRACTICE WITH RESPECT TO SEX FOR A PERSON TO CONSIDER
27 SEX WHEN HIRING AN EMPLOYEE ENGAGED IN CHILD-CARE-RELATED

1 **DOMESTIC SERVICES.**

2 **SECTION 5.** In Colorado Revised Statutes, **amend** 24-34-403 as
3 follows:

4 **24-34-403. Time limits on filing of charges.** Any charge alleging
5 a violation of this part 4 ~~shall~~ **MUST** be filed with the commission
6 pursuant to section 24-34-306 within ~~six months~~ **THREE HUNDRED DAYS**
7 after the alleged discriminatory or unfair employment practice occurred,
8 and if **A CHARGE IS** not ~~so~~ **TIMELY** filed, it ~~shall be~~ **IS** barred.

9 **SECTION 6.** In Colorado Revised Statutes, 24-34-405, **amend**
10 **(3)(a); and repeal (3)(g)** as follows:

11 **24-34-405. Relief authorized - short title.** (3) (a) In addition to
12 the relief available pursuant to subsection (2) of this section, ~~and except~~
13 ~~as provided in paragraph (g) of this subsection (3);~~ in a civil action
14 brought by a plaintiff under this part 4 against a defendant who is found
15 to have engaged in an intentional discriminatory or unfair employment
16 practice, the plaintiff may recover compensatory and punitive damages as
17 specified in this subsection (3). The court shall not award a plaintiff
18 compensatory or punitive damages when the defendant is found to have
19 engaged in an employment practice that is unlawful solely because of its
20 disparate impact.

21 ~~(g) In a civil action involving a claim of discrimination based on~~
22 ~~age, the plaintiff is entitled only to the relief authorized in subsection (2)~~
23 ~~of this section and in 29 U.S.C. sec. 626 (b) and 29 U.S.C. sec. 216 (b) if~~
24 ~~the court finds that the defendant engaged in a discriminatory or unfair~~
25 ~~employment practice based on age. If, in addition to alleging~~
26 ~~discrimination based on age, the plaintiff alleges discrimination based on~~
27 ~~any other factor specified in section 24-34-402 (1), this paragraph (g)~~

1 does not preclude a plaintiff from recovering the relief authorized by this
2 section for that discrimination claim.

3 **SECTION 7. Appropriation.** (1) For the 2022-23 state fiscal
4 year, \$113,548 is appropriated to the department of regulatory agencies
5 for use by the civil rights division. This appropriation is from the general
6 fund. To implement this act, the division may use this appropriation as
7 follows:

8 (a) \$98,718 for personal services, which amount is based on an
9 assumption that the division will require an additional 1.7 FTE; and

10 (b) \$14,830 for operating expenses.

11 **SECTION 8. Act subject to petition - effective date -**
12 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
13 the expiration of the ninety-day period after final adjournment of the
14 general assembly; except that, if a referendum petition is filed pursuant
15 to section 1 (3) of article V of the state constitution against this act or an
16 item, section, or part of this act within such period, then the act, item,
17 section, or part will not take effect unless approved by the people at the
18 general election to be held in November 2022 and, in such case, will take
19 effect on the date of the official declaration of the vote thereon by the
20 governor.

21 (2) This act applies to employment practices occurring on or after
22 the applicable effective date of this act.