

1 SENATE BILL 227

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO HUMAN RIGHTS; AMENDING A SECTION OF THE HUMAN  
12 RIGHTS ACT TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY  
13 AMONG CLASSES PROTECTED FROM UNLAWFUL DISCRIMINATION BY ALL  
14 EMPLOYERS.  
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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 28-1-7 NMSA 1978 (being Laws 1969,  
18 Chapter 196, Section 7, as amended) is amended to read:

19 "28-1-7. UNLAWFUL DISCRIMINATORY PRACTICE.--It is an  
20 unlawful discriminatory practice for:

21 A. an employer, unless based on a bona fide  
22 occupational qualification or other statutory prohibition, to  
23 refuse to hire, to discharge, to promote or demote or to  
24 discriminate in matters of compensation, terms, conditions or  
25 privileges of employment against any person otherwise qualified

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1 because of race, age, religion, color, national origin,  
2 ancestry, sex, sexual orientation, gender identity, physical or  
3 mental handicap or serious medical condition, or, if the  
4 employer has fifty or more employees, spousal affiliation;  
5 provided, however, that 29 U.S.C. Section 631(c)(1) and (2)  
6 shall apply to discrimination based on age [~~or, if the employer~~  
7 ~~has fifteen or more employees, to discriminate against an~~  
8 ~~employee based upon the employee's sexual orientation or gender~~  
9 ~~identity~~];

10 B. a labor organization to exclude a person or to  
11 expel or otherwise discriminate against any of its members or  
12 against any employer or employee because of race, religion,  
13 color, national origin, ancestry, sex, sexual orientation,  
14 gender identity, spousal affiliation, physical or mental  
15 handicap or serious medical condition;

16 C. any employer, labor organization or joint  
17 apprenticeship committee to refuse to admit or employ any  
18 person in any program established to provide an apprenticeship  
19 or other training or retraining because of race, religion,  
20 color, national origin, ancestry, sex, sexual orientation,  
21 gender identity, physical or mental handicap or serious medical  
22 condition, or, if the employer has fifty or more employees,  
23 spousal affiliation;

24 D. any person, employer, employment agency or labor  
25 organization to print or circulate or cause to be printed or

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1     circulated any statement, advertisement or publication, to use  
2     any form of application for employment or membership or to make  
3     any inquiry regarding prospective membership or employment that  
4     expresses, directly or indirectly, any limitation,  
5     specification or discrimination as to race, color, religion,  
6     national origin, ancestry, sex, sexual orientation, gender  
7     identity, physical or mental handicap or serious medical  
8     condition, or, if the employer has fifty or more employees,  
9     spousal affiliation, unless based on a bona fide occupational  
10    qualification;

11             E. an employment agency to refuse to list and  
12    properly classify for employment or refer a person for  
13    employment in a known available job, for which the person is  
14    otherwise qualified, because of race, religion, color, national  
15    origin, ancestry, sex, sexual orientation, gender identity,  
16    spousal affiliation, physical or mental handicap or serious  
17    medical condition, unless based on a bona fide occupational  
18    qualification, or to comply with a request from an employer for  
19    referral of applicants for employment if the request indicates,  
20    either directly or indirectly, that the employer discriminates  
21    in employment on the basis of race, religion, color, national  
22    origin, ancestry, sex, sexual orientation, gender identity,  
23    spousal affiliation, physical or mental handicap or serious  
24    medical condition, unless based on a bona fide occupational  
25    qualification;

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1           F. any person in any public accommodation to make a  
2 distinction, directly or indirectly, in offering or refusing to  
3 offer its services, facilities, accommodations or goods to any  
4 person because of race, religion, color, national origin,  
5 ancestry, sex, sexual orientation, gender identity, spousal  
6 affiliation or physical or mental handicap; provided that the  
7 physical or mental handicap is unrelated to a person's ability  
8 to acquire or rent and maintain particular real property or  
9 housing accommodation;

10           G. any person to:

11                 (1) refuse to sell, rent, assign, lease or  
12 sublease or offer for sale, rental, lease, assignment or  
13 sublease any housing accommodation or real property to any  
14 person or to refuse to negotiate for the sale, rental, lease,  
15 assignment or sublease of any housing accommodation or real  
16 property to any person because of race, religion, color,  
17 national origin, ancestry, sex, sexual orientation, gender  
18 identity, spousal affiliation or physical or mental handicap;  
19 provided that the physical or mental handicap is unrelated to a  
20 person's ability to acquire or rent and maintain particular  
21 real property or housing accommodation;

22                 (2) discriminate against any person in the  
23 terms, conditions or privileges of the sale, rental,  
24 assignment, lease or sublease of any housing accommodation or  
25 real property or in the provision of facilities or services in

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1 connection therewith because of race, religion, color, national  
2 origin, ancestry, sex, sexual orientation, gender identity,  
3 spousal affiliation or physical or mental handicap; provided  
4 that the physical or mental handicap is unrelated to a person's  
5 ability to acquire or rent and maintain particular real  
6 property or housing accommodation; or

7 (3) print, circulate, display or mail or cause  
8 to be printed, circulated, displayed or mailed any statement,  
9 advertisement, publication or sign or use any form of  
10 application for the purchase, rental, lease, assignment or  
11 sublease of any housing accommodation or real property or to  
12 make any record or inquiry regarding the prospective purchase,  
13 rental, lease, assignment or sublease of any housing  
14 accommodation or real property that expresses any preference,  
15 limitation or discrimination as to race, religion, color,  
16 national origin, ancestry, sex, sexual orientation, gender  
17 identity, spousal affiliation or physical or mental handicap;  
18 provided that the physical or mental handicap is unrelated to a  
19 person's ability to acquire or rent and maintain particular  
20 real property or housing accommodation;

21 H. any person to whom application is made either  
22 for financial assistance for the acquisition, construction,  
23 rehabilitation, repair or maintenance of any housing  
24 accommodation or real property or for any type of consumer  
25 credit, including financial assistance for the acquisition of

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1 any consumer good as defined by Section 55-9-102 NMSA 1978, to:

2 (1) consider the race, religion, color,  
3 national origin, ancestry, sex, sexual orientation, gender  
4 identity, spousal affiliation or physical or mental handicap of  
5 any individual in the granting, withholding, extending,  
6 modifying or renewing or in the fixing of the rates, terms,  
7 conditions or provisions of any financial assistance or in the  
8 extension of services in connection with the request for  
9 financial assistance; or

10 (2) use any form of application for financial  
11 assistance or to make any record or inquiry in connection with  
12 applications for financial assistance that expresses, directly  
13 or indirectly, any limitation, specification or discrimination  
14 as to race, religion, color, national origin, ancestry, sex,  
15 sexual orientation, gender identity, spousal affiliation or  
16 physical or mental handicap;

17 I. any person or employer to:

18 (1) aid, abet, incite, compel or coerce the  
19 doing of any unlawful discriminatory practice or to attempt to  
20 do so;

21 (2) engage in any form of threats, reprisal or  
22 discrimination against any person who has opposed any unlawful  
23 discriminatory practice or has filed a complaint, testified or  
24 participated in any proceeding under the Human Rights Act; or

25 (3) willfully obstruct or prevent any person

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1 from complying with the provisions of the Human Rights Act or  
2 to resist, prevent, impede or interfere with the commission or  
3 any of its members, staff or representatives in the performance  
4 of their duties under the Human Rights Act; or

5 J. any employer to refuse or fail to accommodate a  
6 person's physical or mental handicap or serious medical  
7 condition, unless such accommodation is unreasonable or an  
8 undue hardship."

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