

HOUSE BILL 339

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Angelica Rubio and Andrea Romero

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO HUMAN RIGHTS; AMENDING THE HUMAN RIGHTS ACT BY PROVIDING THAT HOUSING DISCRIMINATION BASED ON A HOUSING APPLICANT'S SOURCE OF INCOME, INCLUDING THE USE OF AN INVALID SCREENING PROCESS, IS AN UNLAWFUL DISCRIMINATORY PRACTICE PURSUANT TO THE HUMAN RIGHTS ACT; PROVIDING FOR ENFORCEMENT BY THE ATTORNEY GENERAL FOR CERTAIN DISCRIMINATORY PRACTICES RELATED TO HOUSING.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 28-1-2 NMSA 1978 (being Laws 1969, Chapter 196, Section 2, as amended) is amended to read:

"28-1-2. DEFINITIONS.--As used in the Human Rights Act:

A. "person" means one or more individuals, a partnership, association, organization, corporation, joint venture, legal representative, trustees, receivers, or the state and all of its political subdivisions;

B. "employer" means any person employing four or more persons and any person acting for an employer;

C. "commission" means the human rights commission;

D. "director" or "bureau" means the human rights bureau of the labor relations division of the workforce solutions department;

E. "employee" means any person in the employ of an employer or an applicant for employment;

F. "labor organization" means any organization that exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employment;

G. "employment agency" means any person regularly undertaking with or without compensation to procure opportunities to work or to procure, recruit or refer employees;

H. "public accommodation" means any governmental

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entity or any establishment that provides or offers its services, facilities, accommodations or goods to the public, but does not include a bona fide private club or other place or establishment that is by its nature and use distinctly private;

I. "public contractor" means a person who receives public funds as a result of contracting with a governmental entity;

J. "political subdivision" means any:

- (1) county;
- (2) incorporated city, town or village;
- (3) drainage, conservancy, irrigation, water and sanitation or other district;
- (4) mutual domestic association;
- (5) public water cooperative association; or
- (6) community ditch association;

K. "housing accommodation" means any building or portion of a building that is constructed or to be constructed, which is used or intended for use as the residence or sleeping place of any individual;

L. "real property" means lands, leaseholds or commercial or industrial buildings, whether constructed or to be constructed, offered for sale or rent, and any land rented or leased for the use, parking or storage of house trailers;

M. "secretary" means the secretary of workforce solutions;

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N. "unlawful discriminatory practices" means those unlawful practices and acts specified in Section 28-1-7 NMSA 1978;

O. "physical or mental disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities. A person is also considered to have a mental or physical disability if the person has a record of a physical or mental disability or is regarded as having a physical or mental disability;

P. "major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working;

Q. "applicant for employment" means a person applying for a position as an employee;

R. "sex" means a person's categorization as male, female or intersex based on biology, physiology and physical characteristics;

S. "sexual orientation" means a person's physical, romantic or emotional attraction to persons of the same or a different gender or the absence of any such attraction;

T. "gender identity" means a person's self-perception, based on the person's appearance, behavior or physical characteristics, that the person exhibits more masculinity or femininity or the absence of masculinity or femininity whether or not it matches the person's gender or sex

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assigned at birth;

U. "gender" means an individual or societal expectation or perception of a person as masculine or feminine based on appearance, behavior or physical characteristics;

V. "reasonable accommodation" means modification or adaptation of the work environment, work schedule, work rules or job responsibilities, and reached through good faith efforts to explore less restrictive or less expensive alternatives to enable an employee to perform the essential functions of the job and that does not impose an undue hardship on the employer;

W. "undue hardship" means an accommodation requiring significant difficulty or expense when considered in light of the following factors:

- (1) the nature and cost of the accommodation;
- (2) the financial resources of the employer involved in the provision of the reasonable accommodation;
- (3) the number of persons the employer employs;
- (4) the effect of the accommodation on expenses and resources;
- (5) the impact of the accommodation otherwise upon the employer's business;
- (6) the overall financial resources of the employer;
- (7) the overall size of the business of an

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employer with respect to the number, type and location of its facilities;

(8) the type of operation of the employer, including the composition, structure and functions of the workforce of the employer; or

(9) the geographic separateness or administrative or fiscal relationship to the employer of the employer's facilities;

X. "cultural or religious headdresses" includes hijabs, head wraps or other headdresses used as part of an individual's personal cultural or religious beliefs;

Y. "protective hairstyles" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, bantu knots, afros, weaves, wigs or head wraps;

Z. "race" includes traits historically associated with race, including hair texture, length of hair, protective hairstyles or cultural or religious headdresses;

AA. "state" means the state of New Mexico or any of its agencies, departments, boards, instrumentalities or institutions;

BB. "governmental entity" means the state or any public body;

CC. "public body" means a state or local government, an advisory board, a commission, an agency or an entity created by the constitution of New Mexico or any branch

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of government that receives public funding, including political subdivisions, special tax districts, school districts and institutions of higher education;

DD. "services" means any function, program, activity or benefit; ~~and~~

EE. "military status" means a person's active membership in the armed forces or state defense force or being a veteran of the armed forces or state defense force and includes a spouse or child of an active member or veteran of the armed forces or state defense force;

FF. "source of income" means any lawful and verifiable source of money, funds, payments or other monetary consideration, including:

- (1) income from a lawful profession, occupation or job;
- (2) social security benefits;
- (3) pension, annuity, alimony or child support income; or
- (4) any form of federal, state or local government or nonprofit organization assistance or housing assistance, including vouchers paid directly to a housing provider even if the assistance includes requirements for inspections, administrative processes or contracting agreements;

GG. "invalid screening process" means a screening

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process used to determine the sufficiency of income or assets of an individual or a housing applicant that:

(1) fails to include all of the individual's or the housing applicant's sources of income; or

(2) fails to limit the calculation of an applicant's income requirement to the remaining ratio of income to housing payment due after income from federal, state, local or tribal housing assistance has been subtracted from the total amount of the housing payment; and

HH. "housing applicant" means an individual applying to rent or own a housing accommodation."

SECTION 2. Section 28-1-4 NMSA 1978 (being Laws 1987, Chapter 342, Section 18) is amended to read:

"28-1-4. POWERS AND DUTIES.--

A. Except as provided in Section 28-1-7.3 NMSA 1978, the commission may:

(1) hear complaints and issue orders, including cease and desist orders concerning alleged unlawful discriminatory practice; and

(2) hold hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath, order depositions and require the production for examination of any books, records, correspondence, documents and other evidence relating to any matter under investigation or in question before the

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commission. Contumacy or refusal to obey a subpoena issued pursuant to this section constitutes contempt punishable by the district court of the judicial district in which the witness may be found. No individual shall be excused from attending and testifying or from producing evidence in obedience to a subpoena issued pursuant to this section on the grounds that the testimony or evidence required of ~~him~~ the individual may tend to incriminate ~~him~~ or subject ~~him~~ that individual to a penalty or a forfeiture. However, no individual shall be prosecuted or subjected to any penalty or forfeiture concerning any matter for which ~~he~~ the individual is compelled to testify or give evidence after having claimed ~~his~~ the right against self-incrimination. Nevertheless, the individual so testifying shall not be exempt from prosecution and punishment for perjury committed while testifying.

B. Except as provided in Section 28-1-7.3 NMSA 1978, the human rights bureau of the labor relations division of the workforce solutions department may:

- (1) receive and investigate complaints of alleged unlawful discriminatory practice;
- (2) seek to eliminate discrimination through conciliation and persuasion by voluntary conferences with interested parties;
- (3) recommend application by the director to a district court in the county where the violating party resides

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for specific performance of any conciliation agreement or for enforcement of any order issued by the commission;

(4) endeavor to eliminate prejudice and to further good will. The [~~division~~] bureau, in cooperation with the [~~state department of~~] public education department and local boards of education, shall encourage an educational program for all residents of the state, calculated to eliminate prejudice, its harmful effects and its incompatibility with principles of fair play, equality and justice;

(5) encourage voluntary advisory groups to study problems of discrimination in all fields, to foster, through community efforts, good will and cooperation in this state and to make recommendations to the secretary for the development of policies and procedures [~~which~~] that the secretary may recommend to appropriate state agencies;

(6) seek and enlist the cooperation and contributions and grants of individuals and foundations, private, charitable, religious, labor, civic and benevolent organizations and the federal government for the purposes of this section;

(7) issue publications and release the results of investigation and research [~~which~~] that in the secretary's judgment will tend to promote good will and prevent or eliminate discrimination; and

(8) submit annually a written report of all

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its activities and recommendations to the secretary, the governor and the legislature."

SECTION 3. Section 28-1-7 NMSA 1978 (being Laws 1969, Chapter 196, Section 7, as amended) is amended to read:

"28-1-7. UNLAWFUL DISCRIMINATORY PRACTICE--EMPLOYER--LABOR ORGANIZATION--APPRENTICESHIP COMMITTEE--EMPLOYMENT AGENCY--It is an unlawful discriminatory practice for:

A. an employer, unless based on a bona fide occupational qualification or other statutory prohibition, to refuse to hire, to discharge, to promote or demote or to discriminate in matters of compensation, terms, conditions or privileges of employment against any person otherwise qualified because of race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, physical or mental disability, serious medical condition or military status, or, if the employer has fifty or more employees, spousal affiliation; provided, however, that 29 U.S.C. Section 631(c)(1) and (2) shall apply to discrimination based on age;

B. a labor organization to exclude a person or to expel or otherwise discriminate against any of its members or against any employer or employee because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition

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related to pregnancy or childbirth, spousal affiliation, physical or mental disability, serious medical condition or military status;

C. any employer, labor organization or joint apprenticeship committee to refuse to admit or employ any person in any program established to provide an apprenticeship or other training or retraining because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, physical or mental disability, serious medical condition or military status, or, if the employer has fifty or more employees, spousal affiliation;

D. any person, employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, to use any form of application for employment or membership or to make any inquiry regarding prospective membership or employment that expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, physical or mental disability, serious medical condition or military status, or, if the employer has fifty or more employees, spousal affiliation, unless based on a

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bona fide occupational qualification;

E. an employment agency to refuse to list and properly classify for employment or refer a person for employment in a known available job, for which the person is otherwise qualified, because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, physical or mental disability or serious medical condition, unless based on a bona fide occupational qualification, or to comply with a request from an employer for referral of applicants for employment if the request indicates, either directly or indirectly, that the employer discriminates in employment on the basis of race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, physical or mental disability, serious medical condition, unless based on a bona fide occupational qualification, or military status;

~~[F. any person in any public accommodation to make a distinction, directly or indirectly, in offering or refusing to offer its services, facilities, accommodations or goods to any person because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or~~

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~~childbirth, spousal affiliation, physical or mental disability or military status; provided that the physical or mental disability is unrelated to a person's ability to acquire or rent and maintain particular real property or housing accommodation;~~

~~G. any person to:~~

~~(1) refuse to sell, rent, assign, lease or sublease or offer for sale, rental, lease, assignment or sublease any housing accommodation or real property to any person or to refuse to negotiate for the sale, rental, lease, assignment or sublease of any housing accommodation or real property to any person because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, physical or mental disability or military status; provided that the physical or mental disability is unrelated to a person's ability to acquire or rent and maintain particular real property or housing accommodation;~~

~~(2) discriminate against any person in the terms, conditions or privileges of the sale, rental, assignment, lease or sublease of any housing accommodation or real property or in the provision of facilities or services in connection therewith because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender~~

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~~identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, physical or mental disability or military status; provided that the physical or mental disability is unrelated to a person's ability to acquire or rent and maintain particular real property or housing accommodation; or~~

~~(3) print, circulate, display or mail or cause to be printed, circulated, displayed or mailed any statement, advertisement, publication or sign or use any form of application for the purchase, rental, lease, assignment or sublease of any housing accommodation or real property or to make any record or inquiry regarding the prospective purchase, rental, lease, assignment or sublease of any housing accommodation or real property that expresses any preference, limitation or discrimination as to race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, physical or mental disability or military status; provided that the physical or mental disability is unrelated to a person's ability to acquire or rent and maintain particular real property or housing accommodation;~~

~~H. any person to whom application is made either for financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing~~

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~~accommodation or real property or for any type of consumer credit, including financial assistance for the acquisition of any consumer good as defined by Section 55-9-102 NMSA 1978, to:~~

~~(1) consider the race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation or physical or mental disability of any individual in the granting, withholding, extending, modifying or renewing or in the fixing of the rates, terms, conditions or provisions of any financial assistance or in the extension of services in connection with the request for financial assistance; or~~

~~(2) use any form of application for financial assistance or to make any record or inquiry in connection with applications for financial assistance that expresses, directly or indirectly, any limitation, specification or discrimination as to race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation or physical or mental disability;~~

~~F.] F.~~ any person or employer to:

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

(2) engage in any form of threats, reprisal or

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discrimination against any person who has opposed any unlawful discriminatory practice or has filed a complaint, testified or participated in any proceeding under the Human Rights Act; or

(3) willfully obstruct or prevent any person from complying with the provisions of the Human Rights Act or to resist, prevent, impede or interfere with the commission or any of its members, staff or representatives in the performance of their duties under the Human Rights Act;

[J-] G. any employer to refuse or fail to accommodate a person's physical or mental disability or serious medical condition, unless such accommodation is unreasonable or an undue hardship;

[K-] H. any employer to refuse or fail to make reasonable accommodation for an employee or job applicant with a need arising from pregnancy, childbirth or condition related to pregnancy or childbirth; or

[L-] I. any employer to require an employee with a need arising from pregnancy, childbirth or condition related to pregnancy or childbirth to take paid or unpaid leave if another reasonable accommodation can be provided unless the employee voluntarily requests to be placed on leave or the employee is placed on leave pursuant to federal law [~~or~~

~~M. a governmental entity or a public contractor to refuse or otherwise limit or put conditions on services to a person because of race, age, religion, color, national origin,~~

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~~ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, physical or mental disability, serious medical condition or spousal affiliation; provided that nothing in this subsection shall be construed to require a governmental entity or a public contractor to provide services or programs beyond services or programs to the specific populations that the governmental entity or public contractor is tasked with serving]."~~

SECTION 4. Section 28-1-7.1 NMSA 1978 (being Laws 2003, Chapter 231, Section 1) is amended to read:

"28-1-7.1. [~~PROHIBITING DISCRIMINATION AGAINST~~]
PROHIBITED DISCRIMINATORY ACTS--SENIORS IN CERTAIN VOLUNTEER SERVICE--GOVERNMENTAL ENTITIES--PUBLIC CONTRACTORS--GOVERNMENT PROGRAMS OR SERVICES--CONSUMER GOODS FINANCIAL ASSISTANCE.--

A. The state or a political subdivision of the state, a governmental entity or a public contractor shall not:

(1) exclude [~~a person~~] an individual who is older than sixty years of age from volunteer service as long as the [~~person~~] individual is physically, mentally and professionally capable of performing the services involved. For the purposes of this section, "professionally capable" means having the ability to demonstrate reasonable proficiency and having any relevant certification in accordance with the laws, rules or technical standards that may govern the

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particular profession; or

(2) refuse or otherwise limit or put conditions on services to an individual because of race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, physical or mental disability, serious medical condition or spousal affiliation; provided that nothing in this subsection shall be construed to require a governmental entity or a public contractor to provide services or programs beyond services or programs to the specific populations that the governmental entity or public contractor is tasked with serving.

B. It shall be an unlawful discriminatory practice for any person to whom application is made either for financial assistance or for any type of consumer credit, including financial assistance for the acquisition of any consumer good as defined by Section 55-9-102 NMSA 1978, to:

(1) consider the race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation or physical or mental disability of any individual in the granting, withholding, extending, modifying or renewing or in the fixing of the rates, terms, conditions or provisions of any financial assistance or in the extension of services in connection with

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the request for financial assistance; or

(2) use any form of application for financial assistance or to make any record or inquiry in connection with applications for financial assistance that expresses, directly or indirectly, any limitation, specification or discrimination as to race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation or physical or mental disability."

SECTION 5. A new section of the Human Rights Act, Section 28-1-7.3 NMSA 1978, is enacted to read:

"28-1-7.3. [NEW MATERIAL] UNLAWFUL DISCRIMINATORY PRACTICE--PUBLIC ACCOMMODATION-- HCPAC→PUBLIC←HCPAC HOUSING ACCOMMODATION--ENFORCEMENT.--

A. It is an unlawful discriminatory practice for a person in any public accommodation to make a distinction, directly or indirectly, in offering or refusing to offer its services, facilities, accommodations or goods to any individual because of that individual's:

(1) race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation or military status; or

(2) physical or mental disability; provided that the physical or mental disability is unrelated to that

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individual's ability to acquire or rent and maintain any particular real property or housing.

B. It is an unlawful discriminatory practice for a person to refuse to sell, rent, assign, lease or sublease or offer for sale, rental, lease, assignment or sublease any housing accommodation or real property to any individual or to refuse to negotiate for the sale, rental, lease, assignment or sublease of any housing accommodation or real property to an individual because of that individual's:

(1) race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth, condition related to pregnancy or childbirth, spousal affiliation or military status;

(2) physical or mental disability; provided that the physical or mental disability is unrelated to an individual's ability to acquire or rent and maintain particular real property or housing accommodation; or

(3) source of income; provided that the use of an invalid screening process shall be evidence of a source of income discriminatory practice.

C. It is an unlawful discriminatory practice for a person to discriminate against an individual in the terms, conditions or privileges of the sale, rental, assignment, lease or sublease of a housing accommodation or real property or in the provision of facilities or services in connection therewith

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because of that individual's:

(1) race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth, condition related to pregnancy or childbirth, spousal affiliation or military status;

(2) physical or mental disability; provided that the physical or mental disability is unrelated to the individual's ability to acquire or rent and maintain particular real property or housing accommodation; or

(3) source of income; provided that the use of an invalid screening process shall be evidence of a source of income discriminatory practice.

D. It is an unlawful discriminatory practice for a person to print, circulate, display or mail or cause to be printed, circulated, displayed or mailed any statement, advertisement, publication or sign or use any form of application for the purchase, rental, lease, assignment or sublease of any housing accommodation or real property or to make any record or inquiry regarding the prospective purchase, rental, lease, assignment or sublease of any housing accommodation or real property that expresses any preference, limitation or discrimination as to an individual's:

(1) race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth, condition related to pregnancy or

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childbirth, spousal affiliation or military status;

(2) physical or mental disability; provided that the physical or mental disability is unrelated to an individual's ability to acquire or rent and maintain particular real property or housing accommodation; or

(3) source of income; provided that the use of an invalid screening process shall be evidence of a source of income discriminatory practice.

E. It is an unlawful discriminatory practice for a person to whom application is made for financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation or real property to:

(1) consider the race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation or physical or mental disability of an individual in the granting, withholding, extending, modifying or renewing or in the fixing of the rates, terms, conditions or provisions of any financial assistance or in the extension of services in connection with the request for financial assistance; or

(2) use any form of application for financial assistance or to make any record or inquiry in connection with applications for financial assistance that expresses, directly or indirectly, any limitation, specification or discrimination

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as to race, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, military status, source of income or physical or mental disability.

F. A complaint alleging an unlawful discriminatory practice in violation of this section:

(1) shall be filed with the attorney general. The complaint shall be written and shall state the name and address of the person alleged to have engaged in the discriminatory practice. Upon receipt of a complaint, the attorney general shall review the complaint to ensure the alleged discriminatory practice falls within the scope of this section, and if so, the attorney general shall conduct an investigation and determine any further action as provided in this section; or

(2) may be instituted by the attorney general in a civil action on behalf of the state alleging an unlawful discriminatory practice in violation of this section if the attorney general has reasonable belief that a person has violated this section and that instituting a proceeding against that person would be in the public interest. The action may be brought in the district court of the county in which the person alleged to have violated that act resides or in which the person's principal place of business is located. The attorney

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general shall not be required to post bond when seeking a temporary or permanent injunction in the civil action.

G. The attorney general shall have the authority to investigate a complaint pursuant to this section and may:

- (1) request and review relevant documents, records or communications from any person alleged to have engaged in discriminatory practices;
- (2) issue subpoenas to compel the production of evidence or testimony necessary for the investigation;
- (3) conduct interviews or depositions of individuals with knowledge of the alleged discriminatory practices;
- (4) initiate civil proceedings in a court of competent jurisdiction to enforce compliance with the provisions of this section and seek appropriate remedies, including injunctive relief, civil penalties or other equitable relief as deemed necessary; and
- (5) refer matters for criminal prosecution if evidence of willful or egregious violations is discovered.

H. In a civil action brought under this section, if a court finds that a person willfully committed an act in violation of this section, the attorney general may seek to recover a civil penalty not to exceed five thousand dollars (\$5,000) per violation, in addition to any equitable relief imposed by the court.

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I. The attorney general may, in addition to or as an alternative to pursuing a civil action as provided in this section, pursue criminal charges against a person for an alleged violation of this section under the applicable provisions of the Criminal Code. Venue for any criminal action shall be in the judicial district where the violation occurred."

SECTION 6. Section 28-1-10 NMSA 1978 (being Laws 1969, Chapter 196, Section 9, as amended) is amended to read:

"28-1-10. GRIEVANCE PROCEDURE--COMMISSION--BUREAU--
ATTORNEY GENERAL.--

A. Except for a complaint alleging a public accommodation or a HCPAC→public←HCPAC housing accommodation violation, as provided in Section 28-1-7.3 NMSA 1978, a person claiming to be aggrieved by an unlawful discriminatory practice and a member of the commission who has reason to believe that discrimination has occurred may file with the human rights bureau of the labor relations division of the [labor] workforce solutions department a written complaint that shall state the name and address of the person alleged to have engaged in the discriminatory practice, all information relating to the discriminatory practice and any other information that may be required by the commission. All complaints shall be filed with the division within three hundred days after the alleged act was committed.

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B. The director shall advise the respondent that a complaint has been filed against the respondent and shall furnish the respondent with a copy of the complaint. The director shall promptly investigate the alleged act. If the director determines that the complaint lacks probable cause, the director shall dismiss the complaint and notify the complainant and respondent of the dismissal. The complaint shall be dismissed subject to appeal as in the case of other orders of the commission.

C. If the director determines that probable cause exists for the complaint, the director shall attempt to achieve a satisfactory adjustment of the complaint through persuasion and conciliation. The director and staff shall neither disclose what has transpired during the attempted conciliation nor divulge information obtained during any hearing before the commission or a commissioner prior to final action relating to the complaint. An officer or employee of the [~~labor~~] workforce solutions department who makes public in any manner information in violation of this subsection is guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year.

D. A person who has filed a complaint with the [~~human rights division~~] bureau may request and shall receive an order of nondetermination from the director without delay after the division's receipt of the complaint and in jointly filed

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cases, after the federal complaint has been closed. The order of nondetermination may be appealed pursuant to the provisions of Section 28-1-13 NMSA 1978.

E. In the case of a complaint filed by or on behalf of a person who has an urgent medical condition and has notified the director in writing of the test results, the director shall make the determination whether probable cause exists for the complaint and shall attempt any conciliation efforts within ninety days of the filing of the written complaint or notification, whichever occurs last.

F. If conciliation fails or if, in the opinion of the director, informal conference cannot result in conciliation and the complainant has not requested a waiver of right to hearing pursuant to the provisions of Subsection J of this section, the commission shall issue a written complaint in its own name against the respondent, except that in the case of a complaint filed by or on behalf of a person who has an urgent medical condition, who has notified the director in writing of the test results and who so elects, the director shall issue an order of nondetermination, which may be appealed pursuant to the provisions of Section 28-1-13 NMSA 1978. The complaint shall set forth the alleged discriminatory practice, the secretary's [~~regulation~~] rule or the section of the Human Rights Act alleged to have been violated and the relief requested. The complaint shall require the respondent to

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answer the allegations of the complaint at a hearing before the commission or hearing officer and shall specify the date, time and place of the hearing. The hearing date shall not be more than fifteen or less than ten days after service of the complaint. The complaint shall be served on the respondent personally or by registered mail, return receipt requested. The hearing shall be held in the county where the respondent is doing business or the alleged discriminatory practice occurred.

G. Within one year of the filing of a complaint by a person aggrieved, the commission or its director shall:

(1) dismiss the complaint for lack of probable cause;

(2) achieve satisfactory adjustment of the complaint as evidenced by order of the commission; or

(3) file a formal complaint on behalf of the commission.

H. Upon the commission's petition, the district court of the county where the respondent is doing business or the alleged discriminatory practice occurred may grant injunctive relief pending hearing by the commission or pending judicial review of an order of the commission so as to preserve the status quo or to ensure that the commission's order as issued will be effective. The commission shall not be required to post a bond.

I. For purposes of this section, "urgent medical

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condition" means any medical condition as defined by an appropriate medical authority through documentation or by direct witness of a clearly visible disablement that poses a serious threat to the life of the person with the medical condition.

J. The complainant may seek a trial de novo in the district court in lieu of a hearing before the commission, provided the complainant requests from the director, in writing, a waiver of complainant's right to hearing within sixty days of service of written notice of a probable cause determination by the director. The director shall approve the waiver request and shall serve notice of the waiver upon the complainant and respondent. The complainant may request a trial de novo pursuant to Section 28-1-13 NMSA 1978 within ninety days from the date of service of the waiver. Issuance of the notice shall be deemed a final order of the commission for the purpose of appeal pursuant to Section 28-1-13 NMSA 1978."

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.

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