SPONSOR: Sen. Henry & Sen. Blevins & Rep. B. Short
Sens. McDowell, Peterson, Poore, Sokola, Townsend;
Reps. Barbieri, Baumbach, Bolden, Brady, Heffernan, J. Johnson, Q. Johnson, Kowalko, Longhurst, Mulrooney, M. Smith, D.E. Williams, K. Williams

DELAWARE STATE SENATE
147th GENERAL ASSEMBLY

SENATE BILL NO. 97

AN ACT TO AMEND TITLES 6, 9, 11, 18, 19, 25, AND 29 OF THE DELAWARE CODE RELATING TO HATE CRIMES AND DISCRIMINATION IN EMPLOYMENT, PUBLIC WORKS CONTRACTING, HOUSING, EQUAL ACCOMMODATIONS, AND THE INSURANCE BUSINESS ON THE BASIS OF GENDER IDENTITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4501, Title 6, Delaware Code, by making insertions as shown by underlining as follows:

This chapter is intended to prevent, in places of public accommodations, practices of discrimination against any person because of race, age, marital status, creed, color, sex, handicap, sexual orientation, gender identity or national origin. This chapter shall be liberally construed to the end that the rights herein provided for all people, without regard to race, age, marital status, creed, color, sex, handicap, sexual orientation, gender identity or national origin, may be effectively safeguarded. Furthermore, in defining the scope or extent of any duty imposed by this chapter, higher or more comprehensive obligations established by otherwise applicable federal, state, or local enactments may be considered.

Section 2. Amend § 4502, Title 6, Delaware Code, by renumbering existing subsections (10)-(16) as subsections (11)-(17).

Section 3. Amend § 4502, Title 6, Delaware Code, by inserting a new subsection (10), through insertions as shown by underlining as follows:

(10) "Gender identity" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

Section 4. Amend § 4503, Title 6, Delaware Code, by making insertions as shown by underlining as follows:

All persons within the jurisdiction of this State are entitled to the full and equal accommodations, facilities, advantages and privileges of any place of public accommodation regardless of the race, age, marital status, creed, color, sex, handicap, sexual orientation, gender identity, or national origin of such persons.

Section 5. Amend § 4504(a) & (b), Title 6, Delaware Code, by making insertions as shown by underlining as follows:

(a) No person being the owner, lessee, proprietor, manager, director, supervisor, superintendent, agent or employee of any place of public accommodation, shall directly or indirectly refuse, withhold from or deny to any person, on account of race, age, marital status, creed, color, sex, disability, sexual orientation, gender identity or national origin, any of the accommodations, facilities, advantages or privileges thereof. For the purpose of training support animals to be used by persons with disabilities, all trainers and their support animals shall be included within those covered by this subsection.

(b) No person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, shall directly or indirectly publish, issue, circulate, post or display any written, typewritten, mimeographed, printed or radio communications notice or advertisement to the effect that any of the accommodations, facilities, advantages and privileges of any place of public accommodation shall be refused, withheld from or denied to any person on account of race, age, marital status, creed, color, sex, disability, sexual orientation, gender identity or national origin, or that the patronage or custom thereat of any person belonging to or purporting to be appearing to be of any particular race, age, marital status, creed, color, sex, disability, sexual orientation, gender identity or national origin is unlawful, objectionable, or not acceptable, desired, accommodated or solicited, or that the patronage of persons of any particular race, age, marital status, creed, color, sex, disability, sexual orientation, gender identity or national origin is preferred or is particularly welcomed, desired or solicited.

Section 6. Amend § 4601(a), Title 6, Delaware Code, by making insertions as shown by underlining as follows:

(a) Purpose.--This chapter is intended to eliminate, as to housing offered to the public for sale, rent or exchange, discrimination based upon race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability, and to provide an administrative procedure through which disputes concerning the same may effectively and expeditiously be resolved with fairness and due process for all parties concerned.

Section 7. Amend § 4602, Title 6, Delaware Code, by renumbering existing subsections (16)-(26) as subsections (17)-(27).

Section 8. Amend § 4602, Title 6, Delaware Code, by inserting a new subsection (16), through insertions as shown by underlining as follows:

(16) “Gender identity” means a gender-related identity, appearance, expression or behavior of a person, regardless of the person’s assigned sex at birth.

Section 9. Amend § 4603(b), Title 6, Delaware Code, by making insertions as shown by underlining as follows:

(b) Except as exempted by § 4607 of this title, it shall be unlawful:

(1) To discriminate in the sale or rental, to refuse to sell or rent, to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability.

(3) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability, or an intention to make any such preference, limitation or discrimination. However, nothing in this chapter restricts the inclusion of information about the availability of housing accessible to persons with a disability in advertising of dwellings.

(4) To represent to any person because of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(5) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability.

(6) [Repealed.]

Section 10. Amend § 4604, Title 6, Delaware Code, by making insertions as shown by underlining as follows:

(a) In general.--It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability.

(b) Appraisal exemption.--Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability.

Section 11. Amend § 4605, Title 6, Delaware Code, by making insertions as shown by underlining as follows:

It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling, exchanging or

renting dwellings, or to discriminate against the person in the terms or conditions of such access, membership, or participation, on account of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability.

Section 12. Amend § 4607(c), (d) & (f), Title 6, Delaware Code, by making insertions as shown by underlining as follows:

(c) Nothing in this chapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling as long as they are applied to all occupants and do not operate to discriminate or have the effect of discriminating on the basis of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation, gender identity or disability. Nor does any provision in this chapter regarding familial status or age apply with respect to housing for older persons as defined in § 4602(17)~~(16)~~ of this title.

(d) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(1) Persons residing in such housing as of September 1, 1992 who do not meet the age requirements of § 4602(17)~~(16)~~b. or c. of this title; provided, that new occupants of such housing meet the age requirements of § 4602(17)~~(16)~~b. or c. of this title;

(2) Unoccupied units: provided, that such units are reserved for occupancy by persons who meet the age requirements of § 4602(17)~~(16)~~b. or c. of this title; or

(3) Persons under 18 years of age residing in such housing with a person or persons who do meet the age requirements of § 4602(17)~~(16)~~b. or c. of this title provided that:

a. Such person under 18 years of age must move into the housing by reason of death, serious injury or serious illness of the parent, guardian or person acting in the place of a parent with whom such person under 18 years of age resided immediately before the time of such death, serious injury or serious illness; and

b. Occupancy by the person under 18 years of age is of a temporary nature terminating when reasonably practicable.

(f) Nothing in this chapter shall prohibit discrimination on the basis of sex for single sex student dormitories, fraternities, sororities, other housing or portion thereof of an educational institution certified, chartered, or established by the State and operated for students of that educational institution, provided that such educational institution provides reasonable accommodations to permit access to and use of such facilities consistent with a student's gender identity.

Section 13. Amend § 4619, Title 6, Delaware Code, by making insertions as shown by underlining as follows:

Whoever, whether or not acting under color of law, by force or threat of force wilfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

(1) Any person because of race, color, national origin, religion, creed, sex, sexual orientation, gender identity, marital status, familial status, age or disability and because he or she is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for participating in any service, organization or facility relating to the business of selling or renting dwellings; or

(2) Any person because he or she is or has been, or in order to intimidate such person or any other person or any class of persons from:

a. Participating, without discrimination on account of race, color, national origin, religion, creed, sex, sexual orientation, gender identity, marital status, familial status, age or disability in any of the activities, services, organizations or facilities described in paragraph (1) of this section; or

b. Affording another person or class of persons opportunity or protection so to participate; or

(3) Because any citizen is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, national origin, religion, creed, sex, sexual orientation, gender identity, marital status, familial status, age or disability in any of the activities, services, organizations or facilities described in paragraph (1) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate, that citizen shall be fined for each such act not more than $2,500, or imprisoned not more than 1 year, or both, and if bodily injury results shall be fined for each such act not more than $10,000, or imprisoned not more than 10 years, or both; and, if death results, for each such act shall be subject to imprisonment for any term of years or for life.

Section 14. Amend § 1183(a)(1), Title 9, Delaware Code, by making insertions as shown by underlining as follows:

(1) No person shall be appointed to, or removed from, or in any way favored or discriminated against with respect to, any county position, or appointive county administrative office, because of race, or color, or national origin, or political, or religious opinions or affiliations, or sex, or sexual orientation, or gender identity;

Section 15. Amend § 1304(a)(2), Title 11, Delaware Code by making insertions as shown by underlining as follows:

(2) Selects the victim because of the victim's race, religion, color, disability, sexual orientation, gender identity, national origin or ancestry, shall be guilty of a hate crime. For purposes of this section, the term “sexual orientation” means heterosexuality, bisexuality, or homosexuality, and the term “gender identity” means a gender-related identity, appearance, expression or behavior of a person, regardless of the person’s assigned sex at birth.

Section 16. Amend § 2304(22), Title 18, Delaware Code, by making insertions as shown by underlining as follows:

(22) Unfair discrimination in the value of insurance policies and premiums based on race, color, religion, sexual orientation, gender identity or national origin; penalty.--

a. It shall be an unlawful practice for any insurance company licensed to do business in this State to discriminate in any way because of the insured's race, color, religion, sexual orientation, gender identity or national origin, or to make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, to include the writing of any policy or the application therefor, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of the insurance business, which discriminates in any way because of the insured's race, color, religion, sexual orientation, gender identity or national origin or to classify or refer to any individual on the basis of race, color, religion, sexual orientation, gender identity or national origin.

b. "Sexual orientation" exclusively means heterosexuality, homosexuality, or bisexuality.

c. "Gender identity" means a gender-related identity, appearance, expression or behavior of a person, regardless the person's assigned sex at birth.

~~c.~~d. The Department of Insurance is empowered, as hereinafter provided, to prevent any licensed or authorized insurance company from engaging in any discriminatory practices as set forth in paragraph a. of this subdivision.

~~d.~~e. Whenever a charge is filed with the Department by or on behalf of a person claiming to have been discriminated against in the purchase of insurance because of race, religion, sexual orientation, gender identity, color or national origin, the Department shall serve a copy of the charge on such insurance company and shall make an investigation thereof. Charges shall be in writing and shall contain such information and be in such form as the Department requires. Such charges shall not be made public by the Department. If the Department determines after such investigation that there is reasonable cause to believe that the charge is not true, it shall dismiss the charge and promptly notify the person claiming to have been discriminated against and the respondent of its action. Such notice shall be in writing and shall set forth the facts upon which the decision is based.

~~e.~~f. If the Department determines, after the investigation referred to in paragraph (22)e.~~e.~~ of this section, that there is reasonable cause to believe that the charge is true, the Department shall endeavor to eliminate any such alleged unlawful practice by informal methods of conference, conciliation and persuasion. Nothing said or done during and as a part of such

conciliation endeavors may be made public by the Department, its officers or employees or used as evidence in a subsequent proceeding without the written consent of the persons concerned. The Department shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than 120 days from the filing of the charge. A charge under paragraph (22)e.~~c.~~ of this section must be filed within 90 days after the alleged unlawful discriminatory practice or 120 days after discovery thereof, whichever is the later.

~~f.~~g. If the Department determines, after attempting to secure voluntary compliance under paragraph (22)f.~~d.~~ of this section, that it is unable to secure from the respondent a conciliation agreement acceptable to the Department and to the person aggrieved, which determination shall not be reviewable in any court, the Department shall issue and cause to be served upon the respondent a complaint stating the facts upon which the allegation of the unlawful discriminatory practice is based together with a notice of hearing before the Commissioner or the Commissioner's agent, at a place therein fixed not less than 5 days after the serving of such complaint. The complaint may be amended at any reasonable time provided that the respondent has sufficient time to respond thereto. Related proceedings may be consolidated for hearing.

~~g.~~h. A respondent shall have the right to file an answer to the complaint against the respondent and may amend the respondent's own answer at any reasonable time. The respondent and the person aggrieved shall be parties and may appear at any stage of the proceedings, with or without counsel. All testimony shall be taken under oath and shall be reduced to writing.

~~h.~~i. If the Commissioner or the Commissioner's agent finds that the respondent has engaged in an unlawful discriminatory practice, the Commissioner or the Commissioner's agent shall state its findings of fact in writing and shall issue and cause to be served on the respondent and the person or persons aggrieved by such unlawful discriminatory practice an order requiring the respondent to cease and desist from such unlawful practice. Such order may further require such respondent to make reports from time to time showing the extent to which the respondent has complied with the order. If the Commissioner or the Commissioner's agent finds that the respondent has not engaged in any unlawful discriminatory practice, the Commissioner or the Commissioner's agent shall state those findings of fact in writing and shall issue and cause to be served on the respondent and the person or persons alleged in the complaint to be aggrieved an order dismissing the complaint.

~~i.~~j. 1. Any complainant or aggrieved party, or respondent or intervenor or the Commissioner or the Commissioner's agent may obtain an order of the Court of Chancery for enforcement of the Commissioner's order. The proceeding for enforcement is initiated by filing a petition in the Court of Chancery. Copies of the petition shall be served upon all parties of record. Within 30 days after the service of the petition upon the Commissioner or the Commissioner's agent or its filing by the Commissioner or the Commissioner's agent or within such further time as the Court may allow, the Commissioner or

the Commissioner's agent shall transmit to the Court the original or a certified copy of the entire record upon which the order is based, including any transcript of testimony, which need not be printed. By stipulation of all parties to the proceeding, the record may be shortened. The Court may reverse or modify the order if substantial rights of the petitioner have been prejudiced or the findings of fact of the Department are clearly erroneous. The Court shall have power to grant such temporary relief or restraining order as it deems just and to enter an order enforcing, as modified, or setting aside in whole or in part the order of the Commissioner or the Commissioner's agent or remand the case to the Department for further proceedings.

2. A proceeding under this section must be initiated within 30 days after a copy of the order of the Commissioner or the Commissioner's agent is received. If no proceeding is so initiated, the Commissioner or the Commissioner's agent may obtain a decree of the Court for enforcement of its order upon showing that a copy of the petition for enforcement was served on the respondent and that the respondent is subject to the jurisdiction of the Court.

~~j.~~k. After a charge has been filed and until the record has been filed in the Court of Chancery as herein provided, the proceeding may at any time be ended by agreement between the Commissioner or the Commissioner's agent and the parties for the elimination of the alleged unlawful discriminatory practice, approved by the Commissioner or the Commissioner's agent and the Commissioner or the Commissioner's agent may at any time, upon reasonable notice, modify or set aside, in whole or in part, any finding or order made or issued by it.

~~k.~~l. The Superior Court of the county where the violation is alleged to have occurred shall have jurisdiction to hear an appeal from any decision made by the Commissioner or the Commissioner's agent, except as provided in paragraph (22)j.~~h.~~ of this section. Such appeal shall be on the record only.

~~l.~~m. In the event that the Court determines that the respondent has engaged in an unlawful discriminatory practice causing economic loss to the petitioner, the respondent shall reimburse or refund to the petitioner, with reasonable interest added thereto, a sum equal to the amount of the economic loss suffered by the petitioner.

Section 17. Amend § 710, Title 19, Delaware Code, by renumbering existing subsections (8)-(18) as subsections (9)-(19).

Section 18. Amend § 710(6), Title 19, Delaware Code, and insert a new §710(8), Title 19, Delaware Code by making insertions as shown by underlining as follows:

(6) “Employer” means any person employing 4 or more employees within the State at the time of the alleged violation, including the State or any political subdivision or board, department, commission or school district thereof. The term “employer” with respect to discriminatory practices based upon sexual orientation or gender identity does not include religious corporations, associations or societies whether supported, in whole or in part, by government appropriations,

except where the duties of the employment or employment opportunity pertain solely to activities of the organization that generate unrelated business taxable income subject to taxation under § 511(a) of the Internal Revenue Code of 1986.

(8) "Gender identity" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

Section 19. Amend § 711(a)-(d) & (f)-(h), Title 19, Delaware Code, and add a new §711(l), Title 19, Delaware Code, by making insertions as shown by underlining as follows:

(a) It shall be an unlawful employment practice for an employer to:

(1) Fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to compensation, terms, conditions or privileges of employment because of such individual's race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin; or

(2) Limit, segregate or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee because of such individual's race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin.

(b) It shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment or otherwise to discriminate against any individual because of race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin or to classify or refer for employment any individual on the basis of race, marital status, genetic information, color, religion, age, sex, sexual orientation, gender identity, or national origin.

(c) It shall be an unlawful employment practice for a labor organization to:

(1) Exclude or expel from its membership or otherwise to discriminate against any individual because of race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin;

(2) Limit, segregate or classify its membership or to classify or fail or refuse to refer for employment any individual in any way which would deprive or tend to deprive any individual of employment opportunities or would limit such employment opportunities or otherwise adversely affect the individual's status as an employee or as an applicant for employment because of such individual's race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin; or

(3) Cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be an unlawful employment practice for any employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin in admission to or employment in any program established to provide apprenticeship or other training.

(f) It shall be an unlawful employment practice for any employer, employment agency, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discharge, refuse to hire or otherwise discriminate against any individual or applicant for employment or membership on the basis of such person's race, marital status, color, age, religion, sex, sexual orientation, gender identity, or national origin, because such person has opposed any practice prohibited by this subchapter or because such person has testified, assisted or participated in any manner in an investigation, proceeding, or hearing to enforce the provisions of this subchapter.

(g) Notwithstanding any other provision of this subchapter:

(1) It shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program on the basis of religion, genetic information, age, sex, sexual orientation, gender identity, or national origin in those certain instances where religion, genetic information, age, sex, sexual orientation, gender identity, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and

(2) It shall not be an unlawful employment practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society or if the curriculum of such school, college, university or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(h) Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to apply different standards of compensation or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system or a system which measures earnings by quantity or quality of production or to

employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of race, marital status, genetic information, color, religion, age, sex, sexual orientation, gender identity, or national origin.

(l) Nothing in this subchapter shall affect the ability of an employer to require employees to adhere to reasonable workplace appearance, grooming and dress standards not precluded by other provisions of State or federal law, except that an employer shall allow an employee to appear, groom and dress consistent with the employee's gender identity.

Section 20. Amend § 5105(a)(2), Title 25, Delaware Code, by making insertions as shown by underlining as follows:

(2) The names and usual business addresses of any person who would be deemed a landlord of the unit pursuant to § 5141~~(13)~~(14) of this title.

Section 21. Amend § 5116(a), (b) & (d), Title 25, Delaware Code, by making insertions as shown by underlining as follows:

(a) No person, being an owner or agent of any real estate, house, apartment or other premises, shall refuse or decline to rent, subrent, sublease, assign or cancel any existing rental agreement to or of any tenant or any person by reason of race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability, age or occupation or because the tenant or person has a child or children in the family.

(b) No person shall demand or receive a greater sum as rent for the use and occupancy of any premises because the person renting or desiring to rent the premises is of a particular race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability, age or occupation or has a child or children in the family.

(d) Notwithstanding subsection (a) of this section relating to age discrimination, and consistent with federal and state fair housing acts, a landlord may make rental units available exclusively for rental by senior citizens. A senior citizen rental unit shall be available for rent solely to senior citizens, without regard to race, creed, religion, marital status, color, sex, sexual orientation, gender identity, national origin, disability or occupation of the senior citizen and without regard to whether or not the senior citizen has a dependent child or children in the residence.

Section 22. Amend § 5141, Title 25, Delaware Code, by renumbering subsections (10)-(30) as (11)-(31).

Section 23. Amend § 5141, Title 25, Delaware Code, by inserting a new subsection (10) through insertions as shown by underlining as follows:

(10) "Gender identity" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

Section 24. Amend § 5316(c)(10), Title 25, Delaware Code, by making insertions as shown by underlining as follows:

(10) The landlord, after being given notice of the tenant's victimization per § 5141(6) or ~~(26)~~(27) of this title, discontinues those actions prohibited by subsection (a) of this section, above.

Section 25. Amend § 5953, Title 29, Delaware Code, by making insertions as shown by underlining as follows:

No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or be in any way favored or discriminated against with respect to employment in the classified service because of political or religious opinions or affiliations, sexual orientation, gender identity, sex or race.

Section 26. Amend § 6962(d)(7)a., Title 29, Delaware Code, by making insertions as shown by underlining as follows:

a. As a condition of the awarding of any contract for public works financed in whole or in part by state appropriation, such contracts shall include the following provisions:

"During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, gender identity or national origin. The contractor will take positive steps to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, sex, sexual orientation, gender identity or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided by the contracting agency setting forth this nondiscrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, sexual orientation, gender identity or national origin."

Section 27. The inclusion in this Act of the words "gender identity" is intended to ensure equal rights and not to endorse or confer legislative approval of any unlawful conduct.

Section 28. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Section 29. This Act may be referred to as the "Gender Identity Nondiscrimination Act of 2013".

SYNOPSIS

This Act adds the term "gender identity" to the already-existing list of prohibited practices of discrimination and hate crimes. As such, this Act would forbid discrimination against a person on the basis of gender identity in housing, employment, public works contracting, public accommodations, and insurance, and it would provide for increased punishment of a person who intentionally selects the victim of a crime because of the victim's gender identity.

Author: Senator Henry