

House Proposal of Amendment

S. 230

An act relating to fair employment practices

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

* * *

(5) “Employee” means a person who, in consideration of direct or indirect gain or profit, has been continuously employed by the same employer for a period of one year for an average of at least 30 hours per week or meets the service requirement set forth in 29 C.F.R. § 825.801 (airline flight crew employees) or 29 C.F.R. § 825.110(c)(3) (full-time teachers, as defined in 29 C.F.R. § 825.102, of an elementary or secondary school system or institution of higher education).

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Sec. 2. 21 V.S.A. § 495d is amended to read:

§ 495d. DEFINITIONS

As used in this subchapter:

* * *

(15) “Crime victim” means any of the following:

(A) a person who has obtained a relief from abuse order issued under 15 V.S.A. § 1103;

(B) a person who has obtained an order against stalking or sexual assault issued under 12 V.S.A. chapter 178;

(C) a person who has obtained an order against abuse of a vulnerable adult issued under 33 V.S.A. chapter 69; ~~or~~

(D)(i) a victim as defined in 13 V.S.A. § 5301, provided that the victim is identified as a crime victim in an affidavit filed by a law enforcement official with a prosecuting attorney of competent state or federal jurisdiction; and

(ii) shall include the victim’s child, foster child, parent, spouse, stepchild or ward of the victim who lives with the victim, or a parent of the

victim's spouse, provided that the individual is not identified in the affidavit as the defendant; or

(E) a person who is a survivor of domestic violence, sexual assault, or stalking and who has supporting documentation from any one of the following sources:

(i) a court or law enforcement or other government agency;

(ii) a domestic violence, sexual assault, or stalking assistance program;

(iii) a legal, clerical, medical, or other professional from whom the person has received counseling or other assistance concerning domestic violence, sexual assault, or stalking; or

(iv) a self-attestation by the person describing the circumstances supporting the person's status as a survivor of domestic violence, sexual assault, and stalking for which no further corroboration shall be required unless otherwise mandated by law.

* * *

(18) "Domestic violence" has the same meaning as in 15 V.S.A. § 1151 and includes the definition of "abuse" in 15 V.S.A. § 1101.

(19) "Sexual assault" has the same meaning as in 12 V.S.A. § 5131.

(20) "Stalking" has the same meaning as in 12 V.S.A. § 5131.

Sec. 3. 21 V.S.A. § 495g is amended to read:

§ 495g. ~~PROVISION APPLICABLE TO COLLEGE PROFESSORS~~

~~Nothing in this subchapter shall be construed to prohibit any institution of higher education as defined by section 1201(a) of the federal Higher Education Act of 1965 from retiring any employee who is serving under a contract of unlimited tenure, who attains 70 years of age. Any employee whose tenure contract is terminated may, in the discretion of the institution, be allowed to continue in the employ of the institution on a nontenured basis. [Repealed.]~~

Sec. 3a. 21 V.S.A. § 383 is amended to read:

§ 383. DEFINITIONS

As used in this subchapter:

(1) "Commissioner" means the Commissioner of Labor or designee.

(2) "Employee" means any individual employed or permitted to work by an employer except:

* * *

- (H) outside salespersons; and
- (I) students working during all or any part of the school year or regular vacation periods; and
- (J) elected and appointed municipal officers.

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Sec. 3b. 21 V.S.A. § 495q is added to read:

§ 495q. AGREEMENTS NOT TO COMPETE; PROHIBITION

(a) Nonexempt employees. Agreements not to compete between an employer and a nonexempt employee, per the Fair Labor Standards Act, 29 U.S.C. §§ 201–219, are prohibited as presumptively coercive and a restraint on trade, unless bargained for as part of a collective bargaining agreement.

(b) Health care providers.

(1) Any provision in a contract or agreement that creates or establishes the terms of a partnership, employment, or any other form of professional relationship with a health care provider regarding the health care provider's provision of health care services in Vermont shall be void and unenforceable if the provision:

(A) includes a restriction on the right of the health care provider to provide health care services in any geographical area for any period of time after the termination of such partnership, agreement, or professional relationship;

(B) limits the ability of a separating health care provider to provide notice of the provider's change of employment to individuals to whom the separating provider provided direct health care services;

(C) restricts a health care provider from making disparaging statements about another party to the contract or agreement, or about another person specified in the agreement as a third-party beneficiary of the agreement;

(D) is inconsistent with Vermont law; or

(E) requires litigation arising from the performance of the contract or agreement in Vermont to be conducted in another state.

(2) The notice provided in subdivision (1)(B) of this subsection may include the following information:

(A) that the health care provider is continuing to practice the provider's profession;

(B) the health care provider's new professional contact information;
and

(C) the recipient's right to choose a health care provider.

(3) The provisions in subdivision (1) of this subsection do not apply to restrictions that limit a health care provider who contracts with a third-party company for nonclinical business support services from opening a business within a specific territory supported by a different third-party company providing nonclinical services.

(c) Retaliation and remedies. An employer shall not discharge or in any other manner retaliate against an employee who exercises or attempts to exercise the employee's rights under this section. The provisions against retaliation in subdivision 495(a)(8) of this subchapter and the penalty provisions of section 495b of this subchapter shall apply to this section.

(d) Effective date. This section shall apply to agreements not to compete entered into on or after July 1, 2026.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2026.