2020 South Dakota Legislature

House Bill 1216

SENATE COMMERCE AND ENERGY ENGROSSED

Introduced by: ***Representative*** *Sullivan*

An Act to revise certain provisions regarding sexual harassment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 20-13-1 be AMENDED:

20-13-1. Definitions.

Terms used in this chapter mean:

(1) "Commission," the South Dakota State Commission of Human Rights;

(2) "Commissioner," a member of the commission;

(3) "Court," the circuit court in and for the judicial circuit of the State of South Dakota in which the alleged unfair or discriminatory practice occurred;

(4) "Disability," a physical or mental impairment of a person resulting from disease, injury, congenital condition of birth, or functional disorder which substantially limits one or more of the person's major life functions; a record of having such an impairment; or being regarded as having such an impairment which:

(a) For purposes of §§ 20-13-10 to 20-13-17, inclusive, is unrelated to an individual's ability to perform the major duties of a particular job or position, or is unrelated to an individual's qualifications for employment or promotion;

(b) For purposes of §§ 20-13-20 to 20-13-21.1, inclusive, is unrelated to an individual's ability to acquire, rent or maintain property;

(c) For purposes of §§ 20-13-22 to 20-13-25, inclusive, is unrelated to an individual's ability to utilize and benefit from educational opportunities, programs and facilities at an educational institution.

This term does not include current illegal use of or addiction to marijuana as defined in subdivision 22-42-1(7) or a controlled substance as defined in subdivision 22-42-1(1);

(5) "Educational institution," any public or private institution of education and includes an academy, college, elementary or secondary school, extension course,

kindergarten, nursery, school system, and any business, nursing, professional, secretarial, technical, or vocational school, and includes any agent of such institutions;

(6) "Employee," any person who performs services for any employer for compensation, whether in the form of wages, salary, commission, or otherwise;

(7) "Employer," any person within the State of South Dakota who hires or employs any employee, and any person wherever situated who hires or employs any employee whose services are to be partially or wholly performed in the State of South Dakota;

(8) "Employment agency," any person regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer and includes any agent of such a person;

(9) "Familial status," the relationship of individuals by birth, adoption, or guardianship who are domiciled together;

(10) "Intern," a student or trainee who works, sometimes without pay, at an organization, industry, trade, or occupation in order to gain work experience or earn academic credit;

(11) "Labor organization," includes any person, employee representation committee, plan in which employees participate, or other organization which exists wholly or in part for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment;

~~(11)~~(12) "Person," includes one or more individuals, partnerships, associations, limited liability companies, corporations, unincorporated organizations, mutual companies, joint stock companies, trusts, agents, legal representatives, trustees, trustees in bankruptcy, receivers, labor organizations, public bodies, public corporations, and the State of South Dakota, and all political subdivisions and agencies thereof;

~~(12)~~(13) "Public accommodations," any place, establishment, or facility of whatever kind, nature, or class that caters or offers services, facilities, or goods to the general public for a fee, charge, or gratuitously. Public accommodation does not mean any bona fide private club or other place, establishment, or facility which is by its nature distinctly private, except when such distinctly private place, establishment, or facility caters or offers services, facilities, or goods to the general public for fee, ~~or~~ charge, or gratuitously, it shall be deemed a public accommodation during such period of use;

~~(13)~~(14) "Public service," any public facility, department, agency, board, or commission, owned, operated, or managed by or on behalf of the State of South

Dakota, any political subdivision thereof, or any other public corporation;

~~(14)~~(15) "Real estate broker" and "real estate salesman," real estate broker and real estate salesman as defined by § 36-21A-6 or as licensed pursuant to § 36-21A-47;

~~(15)~~(16) "Real property," any right, title, interest in or to the possession, ownership, enjoyment, or occupancy of any parcel of land, any building situated thereon, or any portion of such building;

~~(16)~~(17) "Unfair or discriminatory practice," any act or attempted act which because of race, color, creed, religion, sex, ancestry, disability, or national origin accords unequal treatment or separation or segregation of any person, or denies, prevents, limits, or otherwise adversely affects, or if accomplished would deny, prevent, limit, or otherwise adversely affect, the benefit or enjoyment by any person of employment, labor union membership, housing accommodations, property rights, education, public accommodations, and public services.

Section 2. That § 20-13-10 be AMENDED:

20-13-10. Unfair or discriminatory practices.

It is an unfair or discriminatory practice for any person, because of race, color, creed, religion, sex, ancestry, disability, or national origin, to fail or refuse to hire, to discharge an employee, or to accord adverse or unequal treatment to any person ~~or~~, employee, or intern with respect to application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff, or any term or condition of employment.