

LAWS OF DELAWARE
VOLUME 83
CHAPTER 13
151st GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 32

AN ACT TO AMEND THE DELAWARE CODE RELATING TO DISCRIMINATION.

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

Section 1. Amend § 1901, Title 2 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1901. Definitions.

As used in this chapter:

(4) “Protective hairstyle” includes braids, locks, and twists.

(5) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 2. Amend § 4502, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 4502. Definitions.

As used in this chapter:

(15) “Protective hairstyle” includes braids, locks, and twists.

(16) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 3. Amend § 4602, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 4602. Definitions.

As used in this chapter:

(22) “Protective hairstyle” includes braids, locks, and twists.

(23) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 4. Amend § 1183, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1183. Prohibitions and penalties.

(a) The following prohibitions ~~shall be applicable:~~ apply:

(1) ~~No person shall~~ A person may not 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,~~ political or religious opinions or affiliations, ~~or sex, or sexual orientation, or gender identity;~~ identity. For purposes of this subsection:

a. “Protective hairstyle” includes braids, locks, and twists.

b. “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

(2) ~~No person shall,~~ A person may not, wilfully or corruptly, make any false statement, certificate, mark, ~~rating~~ rating, or report in regard to any test, certification or appointment under the personnel provisions of this chapter, or in any manner commit or attempt to commit any fraud preventing the impartial execution of the personnel provisions or of the rules and regulations made under this ~~chapter;~~ chapter.

(3) ~~No person~~ A person who seeks appointment or promotion with respect to any county position or appointive county administrative office ~~shall,~~ may not, directly or indirectly, give, ~~render~~ render, or pay any money, ~~service~~ service, or other valuable thing to any person for, or in connection with, that person’s test, appointment, proposed appointment, ~~promotion~~ promotion, or proposed promotion.

Section 5. Amend § 9605, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9605. Recordation of instruments.

(b)(1) A recorder may not knowingly record or receive for filing any contract, mortgage, lease, deed or conveyance, or any other indenture or agreement affecting real property that contains any promise, covenant, or restriction that limits, restrains, prohibits, or otherwise provides against the sale, gift, transfer, assignment, conveyance, ownership, lease, rental, use, or

occupancy of real property to or by any person because of race, color, creed, religion, sex, sexual orientation, gender identity, disability, age, marital status, familial status, source of income, national origin, or ancestry. For purposes of this paragraph (b)(1):

- a. “Protective hairstyle” includes braids, locks, and twists.
- b. “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

(2) Paragraph (b)(1) of this section does not prohibit a recorder from recording or receiving for filing any contract, mortgage, lease, deed or conveyance, or any other indenture or agreement affecting real property that contains a provision that is permitted by the exceptions to the Delaware Fair Housing Act under §§ 4603A and 4607 of Title 6.

Section 6. Amend § 4503, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4503. Definitions.

As used in this chapter:

- (1) “Clerk” means the prothonotary of each county, and includes any deputy or clerk in the office of the ~~prothonotary;~~ prothonotary.
- (2) “Court” means the Superior Court of the State, and includes any Judge of the ~~Court;~~ Court.
- (3) “Juror qualification form” means a form approved by the Court which shall elicit information relevant to the selection of jurors in accordance with this ~~chapter;~~ and chapter.
- (4) “Jury selection plan” means a written plan designed to carry out the policy and the provisions of this ~~chapter;~~ chapter.
- (5) “Master list” means a list or an electronic system for the storage of the names of prospective jurors selected randomly from the source ~~list;~~ list.
- (6) “Protective hairstyle” includes braids, locks, and twists.
- (6) ~~(7)~~ “Qualified jury wheel” means a device or an electronic system for the storage of the names of prospective jurors on a master list who are not disqualified from jury service.
- (8) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.
- (7) ~~(9)~~ “Source list” means a list or an electronic system for the storage of the names on the voter registration list which may be supplemented with names from other sources to foster the policy of this ~~chapter;~~ chapter.
- (8) ~~(10)~~ “Voter registration list” means the current official record of persons registered to vote in a general ~~election;~~ election.

Section 7. Amend § 1213, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1213. Definitions relating to abuse of office.

- (a) ~~In §§ 1211 and 1212 of this title, the~~ The definitions given in under § 1209 of this title apply. ~~apply to §§ 1211 and 1212 of this title.~~
- (b) As used in § 1211 of this title:

- (1) “Protective hairstyle” includes braids, locks, and twists.
- (2) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 8. Amend § 1304, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1304. Hate crimes; class A misdemeanor, class G felony, class F felony, class E felony, class D felony, class C felony, class B felony, class A felony.

- (a) Any person who commits, or attempts to commit, any crime as defined by the laws of this State, and who intentionally:
 - (1) Commits said crime for the purpose of interfering with the victim’s free exercise or enjoyment of any right, privilege or immunity protected by the First Amendment to the United States Constitution, or commits said crime because the victim has exercised or enjoyed said rights; or
 - (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;~~ section:

~~a. the term “sexual orientation” means heterosexuality, bisexuality, or homosexuality, and the term “gender~~
“Gender identity” means a gender-related identity, appearance, ~~expression~~ expression, or behavior of a person,
regardless of the person’s assigned sex at birth.

b. “Protective hairstyle” includes braids, locks, and twists.

c. “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

d. “Sexual orientation” means heterosexuality, bisexuality, or homosexuality.

Section 9. Amend § 506, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 506. Restrictions.

(a) A charter school ~~shall not~~ may not do any of the following:

(1) Charge tuition, except in accordance with Chapter 6 of this title, or collect fees not permitted to be assessed by other school ~~districts; districts.~~

(2) Be home-based nor engage in any sectarian or religious practices in its educational program, admissions policies, employment policies or ~~operations; operations.~~

(3) Restrict student admissions except:

a. By age and grade;

b. By lottery in the case of over-enrollment;

c. By gender in the case of a same-gender school, except that there may not be more than 1 same-gender school for each gender operating simultaneously, and any same-gender charter school authorized prior to June 30, 2014, may have their charter renewed and continue to operate. Any subsequent same-gender charter school that seeks to operate in the State shall make its application to the Department of Education and the State Board of Education.

d.–g. [Repealed.]

(4) Discriminate against any student in the admissions process because of race, creed, color, sex (except in the case of a same-gender school), handicap, or national origin, or because the student’s school district of residence has a per student local expenditure lower than another student seeking ~~admission; or admission.~~ For the purposes of this subsection:

a. “Protective hairstyle” includes braids, locks, and twists.

b. “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

(5) Be formed to circumvent a court-ordered desegregation plan.

Section 10. Amend § 4161, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 4161. Definitions.

For purposes of this subchapter:

(9) “Protective hairstyle” includes braids, locks, and twists.

(10) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 11. Amend § 8501, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 8501. Definitions.

As used in this chapter, unless the context otherwise requires:

(4) “Protective hairstyle” includes braids, locks, and twists.

(5) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 12. Amend § 2304, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2304. Unfair methods of competition and unfair or deceptive acts or practices defined.

The following are ~~hereby~~ defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(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~~ is 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~~ identity, or

national origin, or to make, publish, disseminate, ~~circulate~~ circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, ~~circulated~~ circulated, or placed before the public, in a newspaper, ~~magazine~~ magazine, or other publication, or in the form of a notice, circular, pamphlet, ~~letter~~ 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~~ announcement, or statement containing any assertion, ~~representation~~ 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~~ identity, or national origin or to classify or refer to any individual on the basis of race, color, religion, sexual orientation, gender ~~identity~~ identity, or national origin.

b. For purposes of this paragraph (22):

1. "Gender identity" means a gender-related identity, appearance, expression, or behavior of a person, regardless of the person's assigned sex at birth. Gender identity may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is sincerely held as part of a person's core identity; provided, however, that gender identity shall not be asserted for any improper purpose.

2. "Protective hairstyle" includes braids, locks, and twists.

3. "Race" includes traits historically associated with race, including hair texture and a protective hairstyle.

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

c. ~~"Gender identity" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth. Gender identity may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is sincerely held as part of a person's core identity; provided, however, that gender identity shall not be asserted for any improper purpose.~~ [Transferred to paragraph (22)b. of this section.]

Section 13. Amend § 204, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 204. Training and apprenticeship programs.

(g) The recruitment, ~~selection~~ selection, and training of apprentice trainees during their apprenticeship shall be without discrimination because of race, color, religion, ~~national origin~~ national origin, or sex. The State will take affirmative action to provide equal opportunity in apprenticeship programs and will operate the training program as required under the State plan for equal employment in apprenticeship and training. For purposes of this subsection:

(1) "Protective hairstyle" includes braids, locks, and twists.

(2) "Race" includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 14. Amend § 710, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 710. Definitions.

For the purposes of this subchapter:

(18) "Protective hairstyle" includes braids, locks, and twists.

(20) "Race" includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 15. Amend § 502, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 502. Definitions [Effective Jan. 1, 2021; Effective until July 1, 2021].

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them under this section, except where the context clearly indicates a different meaning:

(14) "Protective hairstyle" includes braids, locks, and twists.

(15) "Race" includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 16. Amend § 502, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 502. Definitions [Effective July 1, 2021].

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them under this section, except where the context clearly indicates a different meaning:

(14) “Protective hairstyle” includes braids, locks, and twists.

(15) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 17. Amend § 701, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 701. Chiropractic defined; limitation of chiropractic license [Effective until July 1, 2021].

(a) As used in this chapter:

(1) “Chiropractic” means a drugless system of health care based on the principle that interference with the transmission of nerve impulses may cause disease.

(4) “Protective hairstyle” includes braids, locks, and twists.

(5) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 18. Amend § 701, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 701. Chiropractic defined; limitation of chiropractic license [Effective July 1, 2021].

(a) As used in this chapter:

(1) “Chiropractic” means a drugless system of health care based on the principle that interference with the transmission of nerve impulses may cause disease.

(4) “Protective hairstyle” includes braids, locks, and twists.

(5) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 19. Amend § 1702, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1702. Definitions [Effective Jan. 1, 2021; Effective until July 1, 2021].

The following definitions apply to this chapter unless otherwise expressly stated or implied by the context:

(14) “Protective hairstyle” includes braids, locks, and twists.

(15) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 20. Amend § 1702, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 1702. Definitions [Effective July 1, 2021].

The following definitions apply to this chapter unless otherwise expressly stated or implied by the context:

(14) “Protective hairstyle” includes braids, locks, and twists.

(15) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 21. Amend § 3101, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 3101. Definitions.

The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them under this section, except where the context clearly indicates a different meaning:

(14) “Protective hairstyle” includes braids, locks, and twists.

(15) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 22. Amend § 5141, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 5141. Definitions.

The following words, terms and phrases, when used in this part, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(24) “Protective hairstyle” includes braids, locks, and twists.

(25) “Race” includes traits historically associated with race, including hair texture and a protective hairstyle.

Section 23. Amend § 5953, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5953. Discrimination prohibited.

(a) For purposes of this section:

(1) “Protective hairstyle” includes braids, locks, and twists.

(2) "Race" includes traits historically associated with race, including hair texture and a protective hairstyle.

(b) No person shall A person may not 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~~ service, because of political or religious opinions or affiliations, sexual orientation, gender identity, ~~sex~~ sex, or race.

Section 24. Amend § 6962, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6962. Large public works contract procedures.

(d) Bid specifications and plans requirements. —

(7) Equality of employment opportunity and equal pay on public works. —

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.

3. The contractor will ensure employees receive equal pay for equal work, without regard to sex. Employee pay differential is acceptable if pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or if the differential is based on any other factor other than sex.

b. The Secretary of the Department of Labor shall be responsible for the administration of this provision and shall adopt such rules and regulations and issue such orders as deemed necessary to achieve the purposes thereof; provided, that no requirement established hereby shall be in conflict with § 6904 of this title.

c. For the purposes of this section:

1. "Protective hairstyle" includes braids, locks, and twists.

2. "Race" includes traits historically associated with race, including hair texture and a protective hairstyle.

Approved April 13, 2021