



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:

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

2 This chapter is intended to prevent, in places of public accommodations, practices of discrimination against any  
3 person because of race, age, marital status, creed, color, sex, handicap, sexual orientation, gender identity or national origin.

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

8 Section 2. Amend § 4502, Title 6, Delaware Code, by renumbering existing subsections (10)-(16) as subsections  
9 (11)-(17).

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

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

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

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

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

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

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

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

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

40 Section 7. Amend § 4602, Title 6, Delaware Code, by renumbering existing subsections (16)-(26) as subsections  
41 (17)-(27).

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

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

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

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

48 (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  
49 otherwise make unavailable or deny, a dwelling to any person because of race, color, national origin, religion, creed, sex,  
50 marital status, familial status, age, sexual orientation, gender identity or disability.

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

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

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

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

66 (6) [Repealed.]

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

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

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

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

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

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

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

83 (c) Nothing in this chapter limits the applicability of any reasonable local, state or federal restrictions regarding the  
84 maximum number of occupants permitted to occupy a dwelling as long as they are applied to all occupants and do not  
85 operate to discriminate or have the effect of discriminating on the basis of race, color, national origin, religion, creed, sex,  
86 marital status, familial status, age, sexual orientation, gender identity or disability. Nor does any provision in this chapter  
87 regarding familial status or age apply with respect to housing for older persons as defined in § 4602(17)(46) of this title.

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

89 (1) Persons residing in such housing as of September 1, 1992 who do not meet the age requirements of §  
90 4602(17)(46)b. or c. of this title; provided, that new occupants of such housing meet the age requirements of §  
91 4602(17)(46)b. or c. of this title;

92 (2) Unoccupied units: provided, that such units are reserved for occupancy by persons who meet the age  
93 requirements of § 4602(17)(46)b. or c. of this title; or

94 (3) Persons under 18 years of age residing in such housing with a person or persons who do meet the age  
95 requirements of § 4602(17)(46)b. or c. of this title provided that:

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

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

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

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

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

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

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

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

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

118 (3) Because any citizen is or has been, or in order to discourage such citizen or any other citizen from lawfully  
119 aiding or encouraging other persons to participate, without discrimination on account of race, color, national origin,  
120 religion, creed, sex, sexual orientation, gender identity, marital status, familial status, age or disability in any of the  
121 activities, services, organizations or facilities described in paragraph (1) of this section, or participating lawfully in speech  
122 or peaceful assembly opposing any denial of the opportunity to so participate, that citizen shall be fined for each such act  
123 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  
124 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  
125 subject to imprisonment for any term of years or for life.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

219 Section 17. Amend § 710, Title 19, Delaware Code, by renumbering existing subsections (8)-(18) as subsections  
220 (9)-(19).

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

268 (g) Notwithstanding any other provision of this subchapter:

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

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

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

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

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

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

297 (2) The names and usual business addresses of any person who would be deemed a landlord of the unit pursuant to  
298 § 5141~~(13)~~(14) of this title.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

347 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