

SENATE BILL NO. 179

Introduced: 01/17/83

Referred to Committee on Judiciary: 01/17/83

Hearing: 1/27/83

Died in Committee.

1 *Senate* BILL NO. *179*
2 INTRODUCED BY *Stewart*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT PUBLIC
5 AGENCIES FROM THE MARITAL STATUS ANTIDISCRIMINATION IN
6 EMPLOYMENT LAWS WHENEVER THESE LAWS CONFLICT WITH THE
7 PROHIBITIONS AGAINST NEPOTISM IN PUBLIC AGENCIES; AMENDING
8 SECTIONS 49-2-303, 49-2-403, AND 49-3-201, MCA."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 49-2-303, MCA, is amended to read:
12 "49-2-303. Discrimination in employment. (1) It is an
13 unlawful discriminatory practice for:
14 (a) an employer to refuse employment to a person, to
15 bar him from employment, or to discriminate against him in
16 compensation or in a term, condition, or privilege of
17 employment because of his race, creed, religion, marital
18 status, color, or national origin or because of his age,
19 physical or mental handicap, or sex when the reasonable
20 demands of the position do not require an age, physical or
21 mental handicap, or sex distinction;
22 (b) a labor organization or joint labor management
23 committee controlling apprenticeship to exclude or expel any
24 person from its membership or from an apprenticeship or
25 training program or to discriminate in any way against a

1 member of or an applicant to the labor organization or an
2 employer or employee because of race, marital status, creed,
3 religion, color, or national origin or because of his age,
4 physical or mental handicap, or sex when the reasonable
5 demands of the program do not require an age, physical or
6 mental handicap, or sex distinction;
7 (c) an employer or employment agency to print or
8 circulate or cause to be printed or circulated a statement,
9 advertisement, or publication or to use an employment
10 application which expresses, directly or indirectly, a
11 limitation, specification, or discrimination as to sex,
12 marital status, age, physical or mental handicap, race,
13 creed, religion, color, or national origin or an intent to
14 make the limitation, unless based upon a bona fide
15 occupational qualification;
16 (d) an employment agency to fail or refuse to refer
17 for employment, to classify, or otherwise to discriminate
18 against any individual because of sex, marital status, age,
19 physical or mental handicap, race, creed, religion, color,
20 or national origin, unless based upon a bona fide
21 occupational qualification.
22 (2) The exceptions permitted in subsection (1) based
23 on bona fide occupational qualifications shall be strictly
24 construed.
25 ~~(3) This section does not affect the prohibition~~

1 ~~against nepotism in public agencies contained in 2-2-302 and~~
2 ~~2-2-303."~~

3 Section 2. Section 49-2-403, MCA, is amended to read:

4 "49-2-403. Specific limits on justification. (1) Sex
5 ~~Except as permitted in 49-2-303(3) and 49-3-201(5), sex,~~
6 marital status, age, physical or mental handicap, race,
7 creed, religion, color, or national origin may not comprise
8 justification for discrimination unless the nature of the
9 service requires the discrimination for the legally
10 demonstrable purpose of correcting a previous discriminatory
11 practice.

12 (2) Age or mental handicap may represent a legitimate
13 discriminatory criterion in credit transactions only as it
14 relates to a person's capacity to make or be bound by
15 contracts or other obligations."

16 Section 3. Section 49-3-201, MCA, is amended to read:

17 "49-3-201. Employment of state and local government
18 personnel. (1) State and local government officials and
19 supervisory personnel shall recruit, appoint, assign, train,
20 evaluate, and promote personnel on the basis of merit and
21 qualifications without regard to race, color, religion,
22 creed, political ideas, sex, age, marital status, physical
23 or mental handicap, or national origin.

24 (2) All state and local governmental agencies shall:

25 (a) promulgate written directives to carry out this

1 policy and to guarantee equal employment opportunities at
2 all levels of state and local government;

3 (b) regularly review their personnel practices to
4 assure compliance; and

5 (c) conduct continuing orientation and training
6 programs with emphasis on human relations and fair
7 employment practices.

8 (3) The department of administration shall insure that
9 the entire examination process, including appraisal of
10 qualifications, is free from bias.

11 (4) Appointing authorities shall exercise care to
12 insure utilization of minority group persons.

13 ~~(5) This section does not affect the prohibition~~
14 ~~against nepotism in public agencies contained in 2-2-302 and~~
15 ~~2-2-303."~~

-End-