



2024 South Dakota Legislature

Senate Bill 30

Introduced by: **Senator Duhamel**

1 **An Act to prohibit discrimination based on military status.**

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

3 **Section 1. That § 20-13-1 be AMENDED:**

4 **20-13-1.** Terms used in this chapter mean:

- 5 (1) "Commission," the South Dakota State Commission of Human Rights;
- 6 (2) "Commissioner," a member of the commission;
- 7 (3) "Court," the circuit court in and for the judicial circuit of the State of South Dakota
- 8 in which the alleged unfair or discriminatory practice occurred;
- 9 (4) "Disability," a physical or mental impairment of a person resulting from disease,
- 10 injury, congenital condition of birth, or functional disorder which substantially limits
- 11 one or more of the person's major life functions; a record of having such an
- 12 impairment; or being regarded as having such an impairment which:
- 13 (a) For purposes of §§ 20-13-10 to 20-13-17, inclusive, is unrelated to an
- 14 individual's ability to perform the major duties of a particular job or position,
- 15 or is unrelated to an individual's qualifications for employment or
- 16 promotion;
- 17 (b) For purposes of §§ 20-13-20 to 20-13-21.1, inclusive, is unrelated to an
- 18 individual's ability to acquire, rent or maintain property;
- 19 (c) For purposes of §§ 20-13-22 to 20-13-25, inclusive, is unrelated to an
- 20 individual's ability to utilize and benefit from educational opportunities,
- 21 programs and facilities at an educational institution.

22 This term does not include current illegal use of or addiction to marijuana as defined

23 in subdivision 22-42-1(7) or a controlled substance as defined in subdivision 22-

24 42-1(1);

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

- 1 kindergarten, nursery, school system, and any business, nursing, professional,
 2 secretarial, technical, or vocational school, and includes any agent of such
 3 institutions;
- 4 (6) "Employee," any person who performs services for any employer for compensation,
 5 whether in the form of wages, salary, commission, or otherwise;
- 6 (7) "Employer," any person within the State of South Dakota who hires or employs any
 7 employee, and any person wherever situated who hires or employs any employee
 8 whose services are to be partially or wholly performed in the State of South Dakota;
- 9 (8) "Employment agency," any person regularly undertaking, with or without
 10 compensation, to procure employees for an employer or to procure for employees
 11 opportunities to work for an employer and includes any agent of such a person;
- 12 (9) "Familial status," the relationship of individuals by birth, adoption, or guardianship
 13 who are domiciled together;
- 14 (10) "Intern," a student or trainee who works, sometimes without pay, at an
 15 organization, industry, trade, or occupation in order to gain work experience or
 16 earn academic credit;
- 17 (11) "Labor organization," includes any person, employee representation committee,
 18 plan in which employees participate, or other organization which exists wholly or
 19 in part for the purpose of dealing with employers concerning grievances, labor
 20 disputes, wages, rates of pay, hours, or other terms or conditions of employment;
- 21 (12) "Military status," a:
- 22 (a) Member of the uniformed forces as defined in 10 U.S.C § 101(a)(5)
 23 (December 27, 2021);
- 24 (b) Member of a reserve component as defined in 10 U.S.C. § 101(c)
 25 (December 27, 2021);
- 26 (c) Veteran as defined in 38 U.S.C. § 101(2) (August 10, 2022); or
- 27 (d) Dependent as defined in 50 U.S.C. § 3911(4) (December 10, 2004);
- 28 (13) "Person," includes one or more individuals, partnerships, associations, limited
 29 liability companies, corporations, unincorporated organizations, mutual companies,
 30 joint stock companies, trusts, agents, legal representatives, trustees, trustees in
 31 bankruptcy, receivers, labor organizations, public bodies, public corporations, and
 32 the State of South Dakota, and all political subdivisions and agencies thereof;
- 33 ~~(13)~~(14) "Public accommodations," any place, establishment, or facility of whatever
 34 kind, nature, or class that caters or offers services, facilities, or goods to the
 35 general public for a fee, charge, or gratuitously. Public accommodation does not

1 mean any bona fide private club or other place, establishment, or facility which is
2 by its nature distinctly private, except when such distinctly private place,
3 establishment, or facility caters or offers services, facilities, or goods to the general
4 public for fee, charge, or gratuitously, it shall be deemed a public accommodation
5 during such period of use;

6 ~~(14)~~(15) "Public service," any public facility, department, agency, board, or commission,
7 owned, operated, or managed by or on behalf of the State of South Dakota, any
8 political subdivision thereof, or any other public corporation;

9 ~~(15)~~(16) "Real estate broker" and "real estate salesman," real estate broker and real
10 estate salesman as defined by § 36-21A-6 or as licensed pursuant to § 36-21A-
11 47;

12 ~~(16)~~(17) "Real property," any right, title, interest in or to the possession, ownership,
13 enjoyment, or occupancy of any parcel of land, any building situated thereon, or
14 any portion of such building;

15 ~~(17)~~(18) "Service animal in training," any dog undergoing individual training to provide
16 specific disability-related work or service for an individual with a disability. Dogs
17 are recognized as being in training to provide disability-specific assistance only
18 after they have completed basic obedience training and are housebroken;

19 ~~(18)~~(19) "Service animal trainer," any person who trains service animals for individuals
20 with disabilities as an employee, contractor, or volunteer of a nationally recognized
21 service animal training program; and

22 ~~(19)~~(20) "Unfair or discriminatory practice," any act or attempted act which because of
23 race, color, creed, religion, sex, ancestry, disability, military status, or national
24 origin accords unequal treatment or separation or segregation of any person, or
25 denies, prevents, limits, or otherwise adversely affects, or if accomplished would
26 deny, prevent, limit, or otherwise adversely affect, the benefit or enjoyment by
27 any person of employment, labor union membership, housing accommodations,
28 property rights, education, public accommodations, and public services.

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

30 **20-13-10.** It is an unfair or discriminatory practice for any person, because of
31 race, color, creed, religion, sex, ancestry, disability, military status, or national origin, to
32 fail or refuse to hire, to discharge an employee, or to accord adverse or unequal treatment
33 to any person, employee, or intern with respect to application, hiring, training,

1 apprenticeship, tenure, promotion, upgrading, compensation, layoff, or any term or
2 condition of employment.

3 **Section 3. That chapter 20-13 be amended with a NEW SECTION:**

4 To the extent that a distinction or differential treatment on the basis of military
5 status is allowed by state law or regulation, federal law or regulation, or government
6 contract, it is not an unfair or discriminatory practice.

7 **Section 4. That § 20-13-11 be AMENDED:**

8 **20-13-11.** It is an unfair or discriminatory practice for any employment agency,
9 because of race, color, creed, religion, sex, ancestry, disability, military status, or national
10 origin, to accord adverse or unequal treatment to any person in connection with any
11 application for employment, any referral, or any request for assistance in procurement of
12 employees, or to accept any listing of employment on ~~such a~~ that basis.

13 **Section 5. That § 20-13-12 be AMENDED:**

14 **20-13-12.** It is an unfair or discriminatory practice for any labor organization,
15 because of race, color, creed, religion, sex, ancestry, disability, military status, or national
16 origin, to deny full and equal membership rights to an applicant for membership or to a
17 member; to expel, suspend, or otherwise discipline a member; or to accord adverse,
18 unlawful, or unequal treatment to any person with respect to that person's hiring,
19 apprenticeship, training, tenure, compensation, upgrading, layoff, or any term or condition
20 of employment.

21 **Section 6. That § 20-13-13 be AMENDED:**

22 **20-13-13.** It is an unfair or discriminatory practice for any employer, employment
23 agency, labor organization, or the employees, agents, or members thereof directly or
24 indirectly to advertise or in any other manner indicate or publicize that individuals of any
25 particular race, color, creed, religion, sex, ancestry, disability, military status, or national
26 origin are unwelcome, objectionable, not acceptable, or not solicited for employment or
27 membership.

28 **Section 7. That § 20-13-15 be AMENDED:**

1 **20-13-15.** Notwithstanding any provision of §§ 20-13-10 to 20-13-13, inclusive,
2 it is not an unfair or discriminatory practice for an employer to give and to act upon the
3 results of any professionally developed ability test if ~~such~~ the test, its administration, or
4 action upon the results is not designed, intended, or used to discriminate because of race,
5 color, creed, religion, sex, ancestry, disability, military status, or national origin.

6 **Section 8. That § 20-13-16 be AMENDED:**

7 **20-13-16.** Notwithstanding any provision of §§ 20-13-10 to 20-13-13, inclusive,
8 it is not an unfair or discriminatory practice for an employer to apply different standards
9 of compensation, or different terms, conditions, or privileges of employment pursuant to
10 a bona fide seniority or merit system, or a system which measures earnings by quantity
11 or quality of production or to employees who work in different locations, if ~~such~~ the
12 differences are not the result of an intention to discriminate because of race, color, creed,
13 religion, sex, ancestry, disability, military status, or national origin.

14 **Section 9. That § 20-13-20 be AMENDED:**

15 **20-13-20.** It is an unfair or discriminatory practice for any owner of rights to
16 housing or real property, or any person acting for an owner, with or without compensation,
17 including any person licensed as a real estate broker or salesman, attorney, auctioneer,
18 agent, or representative by power of attorney or appointment, or to any person acting
19 under court order, deed of trust, or will:

- 20 (1) To refuse to sell, rent, lease, assign, sublease, or otherwise transfer any real
21 property or housing accommodation or part, portion, or interest therein, to any
22 person because of the race, color, creed, religion, sex, ancestry, disability, familial
23 status, military status, or national origin of the person or persons intending to
24 reside there;
- 25 (2) To discriminate against any person because of that person's race, color, creed,
26 religion, sex, ancestry, disability, familial status, military status, or national origin,
27 in the terms, conditions, or privileges of the sale, rental, lease, assignment,
28 sublease, or other transfer of any real property or housing accommodation or any
29 part, portion, or interest therein;
- 30 (3) To directly or indirectly advertise, or to indicate or publicize in any other manner
31 that the purchase, rental, lease, assignment, sublease, or other transfer of any
32 real property or housing accommodation or any part, portion or interest therein,
33 by persons of any particular race, color, creed, religion, sex, ancestry, disability,

1 familial status, military status, or national origin, is unwelcome, objectionable, not
2 acceptable, or not solicited;

3 (4) To refuse to permit, at the expense of the disabled person, reasonable
4 modifications of existing property that may be necessary to afford full enjoyment
5 of property. The landlord may, where it is reasonable to do so, condition permission
6 for a modification on the renter's agreeing to restore the premises to the condition
7 that existed prior to the modification, reasonable wear and tear excepted.

8 The provisions of subdivisions (1), (2), and (4) do not apply to rooms or units in
9 dwellings that contain living quarters for no more than two families living independently
10 of each other, if the owner maintains and occupies one of the living quarters as the owner's
11 residence.

12 This section does not apply to dormitory residences maintained by public or private
13 schools, colleges, and universities for the educational benefit and convenience of
14 unmarried students, or to dwellings occupied by fraternities or sororities officially
15 recognized by such institutions. Nothing in this statute may be construed to displace
16 federal, state, or local guidelines setting reasonable standards governing maximum
17 numbers of occupants.

18 **Section 10. That § 20-13-21 be AMENDED:**

19 **20-13-21.** It is an unfair or discriminatory practice for any person, bank, banking
20 organization, mortgage company, insurance company, or other financial institution or
21 lender to whom application is made for financial assistance for the purchase, lease,
22 acquisition, construction, rehabilitation, repair, or maintenance of any real property, or
23 any agent or employee thereof, to discriminate against any person or group of persons,
24 because of the race, color, creed, religion, sex, ancestry, disability, military status, or
25 national origin of such person or group of persons or of the prospective occupants or
26 tenants of ~~such~~ the real property in the granting, withholding, extending, modifying,
27 renewing, or in the rates, terms, conditions, or privileges of any ~~such~~ financial assistance,
28 or in the extension of services in connection therewith.

29 **Section 11. That § 20-13-22 be AMENDED:**

30 **20-13-22.** It is an unfair or discriminatory practice for any educational institution:
31 (1) To discriminate in any manner in its full use or in its benefits, or in its services
32 against any individual because of race, color, creed, religion, sex, ancestry,
33 disability, military status, or national origin;

1 (2) To include, expel, limit, or otherwise discriminate against any individual seeking
 2 admission as a student, or an individual enrolled as a student because of race,
 3 color, creed, religion, sex, ancestry, disability, military status, or national origin;
 4 or

5 (3) To make or use a written or oral inquiry, or form of application for admission that
 6 elicits or attempts to elicit information, or to make or keep a record, concerning
 7 the race, color, creed, religion, ancestry, disability, or national origin of an applicant
 8 for admission except as may be permitted by regulations of the commission of
 9 human rights.

10 Segregation by sex of athletic activities offered by an educational institution does
 11 not constitute discrimination on the basis of sex in violation of this chapter if the
 12 opportunity to participate in athletic activities offered by the educational institution is
 13 substantially equal for both sexes.

14 This section does not apply to any bona fide religious institution ~~which that~~ has a
 15 qualification based on religion, ~~if such the~~ qualification is related to a bona fide religious
 16 purpose.

17 **Section 12. That § 20-13-23 be AMENDED:**

18 **20-13-23.** It ~~shall be~~ is an unfair or discriminatory practice for any person engaged
 19 in the provision of public accommodations because of race, color, creed, religion, sex,
 20 ancestry, disability, military status, or national origin, to fail or refuse to provide to any
 21 person access to the use of and benefit from the services and facilities of such public
 22 accommodations; or to accord adverse, unlawful, or unequal treatment to any person with
 23 respect to the availability of such services and facilities, the price or other consideration
 24 therefor, the scope and equality thereof, or the terms and conditions under which the
 25 same are made available, including terms and conditions relating to credit, payment,
 26 warranties, delivery, installation, and repair.

27 **Section 13. That § 20-13-24 be AMENDED:**

28 **20-13-24.** It is an unfair or discriminatory practice for any person engaged in the
 29 provision of public services, by reason of race, color, creed, religion, sex, ancestry,
 30 disability, military status, or national origin, to fail or refuse to provide to any person
 31 access to the use of and benefit thereof, or to provide adverse or unequal treatment to
 32 any person in connection therewith.

1 **Section 14. That § 20-13-25 be AMENDED:**

2 **20-13-25.** It is an unfair or discriminatory practice for any person directly or
3 indirectly to advertise or in any other manner indicate or publicize that the patronage of
4 persons of any particular race, color, creed, religion, sex, ancestry, disability, military
5 status, or national origin is unwelcome, objectionable, not acceptable, or not solicited.

6 **Section 15. That § 20-13-27 be AMENDED:**

7 **20-13-27.** The commission shall promulgate rules, pursuant to chapter 1-26,
8 consistent with and necessary for the enforcement of this chapter pertaining to:

- 9 (1) The administration of the ~~division~~ Division of Human Rights;
- 10 (2) Complaints, investigations, findings, answers and hearings, and orders;
- 11 (3) General commission policies;
- 12 (4) Tests in employee selection; and
- 13 (5) Discrimination based upon sex, race, religion or creed, origin, ancestry, familial
14 status, military status, or disability.