

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

ENGROSSED

House Bill 3080

By Delegates W. Clark, Ridenour, Horst, Hornby, and
Funkhouser

[Introduced March 03, 2025; Referred to the
Committee on Government Organization]

1 A BILL to amend and reenact §16B-17-9 and §16B-17-9a of the Code of West Virginia,
2 establishing that an employer granting preference in hiring a military spouse does not
3 violate the state Human Rights Act under certain circumstances.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE
GOVERNMENT.**

ARTICLE 17. HUMAN RIGHTS COMMISSION.

§16B-17-9. Unlawful discriminatory practices.

1 It shall be an unlawful discriminatory practice, unless based upon a bona fide occupational
2 qualification, or except where based upon applicable security regulations established by the
3 United States or the State of West Virginia or its agencies or political subdivisions:

4 (1) For any employer to discriminate against an individual with respect to compensation,
5 hire, tenure, terms, conditions or privileges of employment if the individual is able and competent
6 to perform the services required even if such individual is blind or disabled: *Provided*, That it shall
7 not be an unlawful discriminatory practice for an employer to observe the provisions of any bona
8 fide pension, retirement, group or employee insurance or welfare benefit plan or system not
9 adopted as a subterfuge to evade the provisions of this subdivision: *Provided, however*, That an
10 employer may grant preference in hiring to a military spouse, veteran or a disabled veteran in
11 accordance with the provisions of §16B-17-9a of this code without violating the provisions of this
12 article.

13 (2) For any employer, employment agency or labor organization, prior to the employment
14 or admission to membership, to: (A) Elicit any information or make or keep a record of or use any
15 form of application or application blank containing questions or entries concerning the race,
16 religion, color, national origin, ancestry, sex or age of any applicant for employment or
17 membership; (B) print or publish or cause to be printed or published any notice or advertisement

relating to employment or membership indicating any preference, limitation, specifications or discrimination based upon race, religion, color, national origin, ancestry, sex, disability or age; or (C) deny or limit, through a quota system, employment or membership because of race, religion, color, national origin, ancestry, sex, age, blindness or disability;

(3) For any labor organization because of race, religion, color, national origin, ancestry, sex, age, blindness or disability of any individual to deny full and equal membership rights to any individual or otherwise to discriminate against such individual with respect to hire, tenure, terms, conditions or privileges of employment or any other matter, directly or indirectly, related to employment;

(4) For an employer, labor organization, employment agency or any joint labor-management committee controlling apprentice training programs to:

(A) Select individuals for an apprentice training program registered with the State of West Virginia on any basis other than their qualifications as determined by objective criteria which permit review;

(B) Discriminate against any individual with respect to his or her right to be admitted to or participate in a guidance program, an apprenticeship training program, on-the-job training program or other occupational training or retraining program;

(C) Discriminate against any individual in his or her pursuit of such programs or to discriminate against such a person in the terms, conditions or privileges of such programs;

(D) Print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for these programs or to make any inquiry in connection with a program which expresses, directly or indirectly, discrimination or any intent to discriminate unless based upon a bona fide occupational qualification;

(5) For any employment agency to fail or refuse to classify properly, refer for employment or otherwise to discriminate against any individual because of his or her race, religion, color, national origin, ancestry, sex, age, blindness or disability;

44 (6) For any person being the owner, lessee, proprietor, manager, superintendent, agent or
45 employee of any place of public accommodations to:

46 (A) Refuse, withhold from or deny to any individual because of his or her race, religion,
47 color, national origin, ancestry, sex, age, blindness or disability, either directly or indirectly, any of
48 the accommodations, advantages, facilities, privileges or services of the place of public
49 accommodations;

50 (B) Publish, circulate, issue, display, post or mail, either directly or indirectly, any written or
51 printed communication, notice or advertisement to the effect that any of the accommodations,
52 advantages, facilities, privileges or services of any such place shall be refused, withheld from or
53 denied to any individual on account of race, religion, color, national origin, ancestry, sex, age,
54 blindness or disability, or that the patronage or custom thereof of any individual, belonging to or
55 purporting to be of any particular race, religion, color, national origin, ancestry, sex or age, or who
56 is blind or disabled, is unwelcome, objectionable, not acceptable, undesired or not solicited; or

57 (7) For any person, employer, employment agency, labor organization, owner, real estate
58 broker, real estate salesman or financial institution to:

59 (A) Engage in any form of threats or reprisal, or to engage in, or hire, or conspire with
60 others to commit acts or activities of any nature, the purpose of which is to harass, degrade,
61 embarrass or cause physical harm or economic loss or to aid, abet, incite, compel or coerce any
62 person to engage in any of the unlawful discriminatory practices defined in this section;

63 (B) Willfully obstruct or prevent any person from complying with the provisions of this
64 article, or to resist, prevent, impede or interfere with the commission or any of its members or
65 representatives in the performance of a duty under this article; or

66 (C) Engage in any form of reprisal or otherwise discriminate against any person because
67 he or she has opposed any practices or acts forbidden under this article or because he or she has
68 filed a complaint, testified, or assisted in any proceeding under this article.

§16B-17-9a. Veterans and military spouse preference not a violation of equal employment

opportunity under certain circumstances.

1 An employer may grant preference in hiring to a military spouse, veteran or disabled
2 veteran who has been honorably discharged from the United States Armed Services: *Provided*,
3 That the veteran or disabled veteran meets all of the knowledge, skills, and eligibility requirements
4 of the job, and provided further that, granting the preference does not violate any state equal
5 employment opportunity law. For purposes of this section, the term "veteran" means any person
6 who has received an honorable discharge and: (a) Has provided more than one hundred eighty
7 consecutive days of full-time, active-duty service in the United States Armed Services or Reserve
8 components thereof, including the National Guard; or (b) has a service-connected disability rating
9 fixed by the United States Department of Veterans Affairs. For the purposes of this section, the
10 term "military spouse" means the spouse of a member of the uniformed services of the United
11 States.