

1 SENATE BILL NO. 229

2 INTRODUCED BY V. COCCHIARELLA, BUZZAS, ELLINGSON, HAINES, HALLIGAN, HARRIS, MAHLUM,
3 SHEA, STONINGTON, F. THOMAS, TOOLE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IT IS NOT MARITAL STATUS
6 DISCRIMINATION FOR AN EMPLOYER TO EMPLOY OR OFFER TO EMPLOY A PERSON WHO IS
7 QUALIFIED FOR THE POSITION, ~~BASED UPON THE EMPLOYER'S DESIRE TO EMPLOY OR RETAIN THE~~
8 EMPLOYMENT OF AND TO ALSO EMPLOY OR OFFER TO EMPLOY THE PERSON'S SPOUSE; AND
9 AMENDING SECTION 49-2-303, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 **Section 1.** Section 49-2-303, MCA, is amended to read:14 **"49-2-303. Discrimination in employment.** (1) It is an unlawful discriminatory practice for:

15 (a) an employer to refuse employment to a person, to bar a person from employment, or to
16 discriminate against a person in compensation or in a term, condition, or privilege of employment because
17 of race, creed, religion, color, or national origin or because of age, physical or mental disability, marital
18 status, or sex when the reasonable demands of the position do not require an age, physical or mental
19 disability, marital status, or sex distinction;

20 (b) a labor organization or joint labor management committee controlling apprenticeship to exclude
21 or expel any person from its membership or from an apprenticeship or training program or to discriminate
22 in any way against a member of or an applicant to the labor organization or an employer or employee
23 because of race, creed, religion, color, or national origin or because of age, physical or mental disability,
24 marital status, or sex when the reasonable demands of the program do not require an age, physical or
25 mental disability, marital status, or sex distinction;

26 (c) an employer or employment agency to print or circulate or cause to be printed or circulated
27 a statement, advertisement, or publication or to use an employment application that expresses, directly
28 or indirectly, a limitation, specification, or discrimination as to sex, marital status, age, physical or mental
29 disability, race, creed, religion, color, or national origin or an intent to make the limitation, unless based
30 upon a bona fide occupational qualification;

1 (d) an employment agency to fail or refuse to refer for employment, to classify, or otherwise to
2 discriminate against any individual because of sex, marital status, age, physical or mental disability, race,
3 creed, religion, color, or national origin, unless based upon a bona fide occupational qualification.

4 (2) The exceptions permitted in subsection (1) based on bona fide occupational qualifications must
5 be strictly construed.

6 (3) Compliance with 2-2-302 and 2-2-303, which prohibit nepotism in public agencies, may not
7 be construed as a violation of this section.

8 (4) The application of a hiring preference, as provided for in 2-18-111 and 18-1-110, may not be
9 construed to be a violation of this section.

10 (5) It is not a violation of the prohibition against marital status discrimination in this section:

11 (a) for an employer or labor organization to provide greater or additional contributions to a bona
12 fide group insurance plan for employees with dependents than to those employees without dependents
13 or with fewer dependents; or

14 (b) for an employer to employ or offer to employ a person who is qualified for the position, based
15 upon the employer's desire to employ or retain the employment of AND TO ALSO EMPLOY OR OFFER TO EMPLOY
16 the person's spouse."

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