

SB 156-FN - AS INTRODUCED

2015 SESSION

15-0481
05/01

SENATE BILL ***156-FN***

AN ACT prohibiting discrimination against employees who are victims of domestic violence, sexual assault, or stalking.

SPONSORS: Sen. Hosmer, Dist 7; Sen. Fuller Clark, Dist 21

COMMITTEE: Commerce

ANALYSIS

This bill prohibits an employer from discriminating against an employee who is or has been a victim of domestic violence, sexual assault, or stalking. The bill provides for enforcement through the state commission for human rights.

This bill is a request of the committee to study the protection of employees from domestic violence, established in SB 390 (2014, 208:2).

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT prohibiting discrimination against employees who are victims of domestic violence, sexual assault, or stalking.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 State Commission for Human Rights; Title and Purposes of Chapter; Reference to Victims of
2 Domestic Violence, Sexual Assault, and Stalking Added. Amend RSA 354-A:1 to read as follows:

3 354-A:1 Title and Purposes of Chapter. This chapter shall be known as the “Law Against
4 Discrimination.” It shall be deemed an exercise of the police power of the state for the protection of the
5 public welfare, health and peace of the people of this state, and in fulfillment of the provisions of the
6 constitution of this state concerning civil rights. The general court hereby finds and declares that
7 practices of discrimination against any of its inhabitants because of age, sex, **sexual orientation**, race,
8 creed, color, marital status, familial status, physical or mental disability, or national origin, **or**
9 **because a person is a victim of domestic violence, sexual assault, or stalking**, are a matter of
10 state concern, that such discrimination not only threatens the rights and proper privileges of its
11 inhabitants but menaces the institutions and foundation of a free democratic state and threatens the
12 peace, order, health, safety and general welfare of the state and its inhabitants. A state agency is
13 hereby created with power to eliminate and prevent discrimination in employment, in places of public
14 accommodation and in housing accommodations because of age, sex, **sexual orientation**, race, creed,
15 color, marital status, familial status, physical or mental disability or national origin, **or because a**
16 **person is a victim of domestic violence, sexual assault, or stalking**, as herein provided; and the
17 commission established hereunder is hereby given general jurisdiction and power for such purposes.
18 ~~[In addition, the agencies and councils so created shall exercise their authority to assure that no person~~
19 ~~be discriminated against on account of sexual orientation.]~~

20 2 New Paragraph; State Commission for Human Rights; Definition Added. Amend RSA 354-A:2
21 by inserting after paragraph XV the following new paragraph:

22 XVI. “Victim of domestic violence, sexual assault, or stalking” means a person who has
23 obtained a temporary or final protective order under RSA 173-B:4, RSA 173-B:5, or RSA 633:3-a,
24 III-a, or a person who has reported to law enforcement or a domestic violence center that he or she
25 has been the victim of abuse as defined in RSA 173-B:1, I, sexual assault under RSA 632-A, or
26 stalking under RSA 633:3-a, I.

27 3 General Powers and Duties of the Commission; Reference to Victims of Domestic Violence,
28 Sexual Assault, and Stalking Added. Amend RSA 354-A:5, VIII and IX to read as follows:

29 VIII. To create such advisory agencies and conciliation councils, local, regional or statewide,
30 as in its judgment will aid in effectuating the purpose of this chapter, and the commission may

1 empower them to study the problems of discrimination in all or specific fields of human relationships
2 or in specific instances of discrimination, because of age, sex, **sexual orientation**, race, color,
3 ~~[sexual orientation]~~ marital status, familial status, or physical or mental disability, religious creed
4 or national origin, **or because a person is a victim of domestic violence, sexual assault, or**
5 **stalking**, in order to foster, through community effort or otherwise, good will, cooperation and
6 conciliation among the groups and elements of the population of the state, and make
7 recommendations to the commission for the development of policies and procedures in general and in
8 specific instances, and for programs of formal and informal education which the commission may
9 recommend to the appropriate state agency. Such advisory agencies and conciliation councils shall
10 be composed of representative citizens, serving without pay, but with reimbursement for actual and
11 necessary traveling expenses; and the commission may make provision for technical clerical
12 assistance to such agencies and councils and for the expenses of such assistance.

13 IX. To issue such publications and such results of investigations and research as in its
14 judgment will tend to promote good will and minimize or eliminate discrimination because of age,
15 sex, **sexual orientation**, race, color, marital status, familial status, physical or mental disability,
16 religious creed or national origin, ~~[and on account of sexual orientation]~~ **or because a person is a**
17 **victim of domestic violence, sexual assault, or stalking**.

18 4 Commission for Human Rights; Opportunity for Employment Without Discrimination a Civil
19 Right; Protection for Victims of Domestic Violence, Sexual Assault, or Stalking. Amend RSA 354-A:6
20 to read as follows:

21 354-A:6 Opportunity for Employment Without Discrimination a Civil Right. The opportunity to
22 obtain employment without discrimination because of age, sex, **sexual orientation**, race, creed,
23 color, marital status, physical or mental disability, or national origin, **or because a person is a**
24 **victim of domestic violence, sexual assault, or stalking** is hereby recognized and declared to be
25 a civil right. ~~[In addition, no person shall be denied the benefits of the rights afforded by this section~~
26 ~~on account of that person's sexual orientation.]~~

27 5 Unlawful Discriminatory Practices; Discrimination Against Victims of Domestic Violence,
28 Sexual Assault, or Stalking Prohibited. Amend RSA 354-A:7, I-III to read as follows:

29 I. For an employer, because of the age, sex, **sexual orientation**, race, color, marital status,
30 physical or mental disability, religious creed, or national origin of any individual, **or because the**
31 **person is a victim of domestic violence, sexual assault, or stalking**, to refuse to hire or employ
32 or to bar or to discharge from employment such individual or to discriminate against such individual
33 in compensation or in terms, conditions or privileges of employment, unless based upon a bona fide
34 occupational qualification. ~~[In addition, no person shall be denied the benefit of the rights afforded~~
35 ~~by this paragraph on account of that person's sexual orientation].~~

36 II. For a labor organization, because of the age, sex, **sexual orientation**, race, color, marital
37 status, physical or mental disability, creed, or national origin of any individual, **or because the**

1 *person is a victim of domestic violence, sexual assault, or stalking*, to exclude from full
2 membership rights or to expel from its membership such individual or to discriminate in any way
3 against any of its members or against any employer or any individual employed by an employer,
4 unless based upon a bona fide occupational qualification. [~~In addition, no person shall be denied the~~
5 ~~benefit of the rights afforded by this paragraph on account of that person's sexual orientation.~~]

6 III. For any employer or employment agency to print or circulate or to cause to be printed or
7 circulated any statement, advertisement or publication, or to use any form of application for
8 employment or to make any inquiry or record in connection with employment, which expresses,
9 directly or indirectly, any limitation, specification or discrimination as to age, sex, *sexual*
10 *orientation*, race, color, marital status, physical or mental disability, religious creed or national
11 origin *or because the person is a victim of domestic violence, sexual assault, or stalking*, or
12 any intent to make any such limitation, specification or discrimination in any way on the ground of
13 age, sex, *sexual orientation*, race, color, marital status, physical or mental disability, religious
14 creed or national origin, *or because the person is a victim of domestic violence, sexual assault,*
15 *or stalking*, unless based upon a bona fide occupational qualification; provided, however, that
16 nothing in this chapter shall limit an employer after the offer of hire of an individual from inquiring
17 into and keeping records of any existing or pre-existing physical or mental conditions. [~~In addition,~~
18 ~~no person shall be denied the benefit of the rights afforded by this paragraph on account of that~~
19 ~~person's sexual orientation.~~]

20 6 New Paragraph; Employer Discrimination Against Victims of Domestic Violence, Sexual
21 Assault, or Stalking Prohibited. Amend RSA 354-A:7 by inserting after paragraph VII the following
22 new paragraph:

23 VIII. For an employer to:

24 (a) Refuse to hire an otherwise qualified individual because the individual is a victim of
25 domestic violence, sexual assault, or stalking; or

26 (b) Discharge, threaten to discharge, demote, suspend, or in any manner discriminate or
27 retaliate against an individual with regard to promotion, compensation or other terms, conditions, or
28 privileges of employment because the individual is a victim of domestic violence, sexual assault, or
29 stalking.

30 7 Repeal. The following are repealed:

31 I. RSA 275:71, prohibiting employer discrimination against victims of domestic violence.

32 II. RSA 275:72, relative to enforcement by the labor commissioner.

33 8 Effective Date. This act shall take effect January 1, 2016.

SB 156-FN - FISCAL NOTE

AN ACT prohibiting discrimination against employees who are victims of domestic violence, sexual assault, or stalking.

FISCAL IMPACT:

The Judicial Branch states this bill, **as introduced**, may increase state expenditures by an indeterminable amount in FY 2016 and each year thereafter. There will be no fiscal impact on local expenditures or state, county, and local revenue.

METHODOLOGY:

The Judicial Branch states this bill amends the human rights commission statute to add as a prohibited category of discrimination victims of domestic violence, sexual assault or stalking. Enforcement of this statute is done by the human rights commission; however, any person aggrieved by an order of the human rights commission may appeal that order to the superior court. The Branch states this appeal type would be classified as a complex equity case. There is no method to determine how many appeals would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the Judicial Branch has provided the potential costs associated with complex equity cases.

	FY 2016	FY 2017
<u>Judicial Branch*</u>		
Complex Equity Case	\$699	\$712
Appeals	Varies	Varies
*It should be noted average case cost estimates for FY 2016 and FY 2017 are based on data that is more than nine years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types.		

The Human Rights Commission does not anticipate this bill increasing filings, therefore it is not expected to have a fiscal impact on the Commission. The Commission states in the past seven years, it has had only one charge of discrimination accepted under the sex: gender class.