

AN ACT
D.C. ACT 19-329

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 19, 2012

*Codification
District of
Columbia
Official Code*

2001 Edition

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Supp.

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Publisher

To prohibit discrimination in employment on the basis of an individual's status as unemployed.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Unemployed Anti-Discrimination Act of 2012".

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) "Employee" means any individual employed by an employer.
- (2) "Employer" means any person who employs or seeks to employ for compensation one or more individuals for a position in the District (but not including the person's parent, spouse, child, or domestic servant engaged in work in and about the employer's household). The term "employer" includes any person acting in the interest of the person, directly or indirectly.
- (3) "Employment agency" means any person regularly undertaking or attempting, with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer, and includes an agent of that person.
- (4) "Potential employee" means any individual who has applied to an employer for a vacant position to gain employment.
- (5) "Status as unemployed" means any individual who, at the time of applying for employment, or, who at the time an act alleged to violate this act occurs, does not have a job, is available for work, and is seeking employment.

Sec. 3. Discrimination based on status as unemployed unlawful.

No employer or employment agency shall:

- (1) Fail or refuse to consider for employment, or fail or refuse to hire, an individual as an employee because of the individual's status as unemployed; or
- (2) Publish, in print, on the Internet, or in any other medium, an advertisement or announcement for any vacancy in a job for employment that includes:
 - (A) Any provision stating or indicating that an individual's status as unemployed disqualifies the individual for the job; or

(B) Any provision stating or indicating that an employment agency will not consider or hire an individual for employment based on that individual's status as unemployed.

Sec. 4. Retaliation unlawful.

No employer or employment agency shall:

- (1) Interfere with, restrain, or deny the exercise of, or the attempted exercise of, any right provided under this act; or
- (2) Fail or refuse to hire, or discharge, any employee or potential employee because the employee or potential employee:
 - (A) Opposed any practice made unlawful by this act;
 - (B) Has filed any charge, or has instituted or caused to be instituted any proceeding, relating to any right provided under this act;
 - (C) Has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this act; or
 - (D) Has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this act.

Sec. 5. Exemptions.

(a) Nothing set forth in this act shall be construed as prohibiting an employer or employment agency from publishing, in print, on the Internet, or in any other medium, an advertisement for any job vacancy that contains any provision setting forth any other qualifications for a job, as permitted by law, including:

- (1) The holding of a current and valid professional or occupational license;
- (2) A certificate, registration, permit, or other credential; or
- (3) A minimum level of education, training, or professional, occupational, or field experience.

(b) Nothing in this act is intended to preclude an employer or employment agency from examining the reasons underlying an individual's status as unemployed in assessing an individual's ability to perform a job or in otherwise making employment decisions about that individual.

(c) Nothing in this act shall be construed as prohibiting an employer or employment agency from publishing, in print, on the Internet, or in any other medium, an advertisement for any job vacancy that contains any provision stating that only applicants who are currently employed by the employer will be considered for employment.

Sec. 6. Oversight.

(a) The District of Columbia Office of Human Rights ("Office") shall receive, review, and investigate complaints regarding violations of this act and shall take appropriate enforcement action regarding the complaints.

(b) The Office shall respond to a complaint arising pursuant to this act no later than one month after the complaint is filed.

(c) The Office shall assess civil penalties in all cases where the Office determines that an employer or employment agency has committed a violation of this act.

Sec. 7. Civil penalties.

(a) An employer or employment agency that the Office finds to have violated this act shall be subject to a civil penalty for a first violation of \$1,000 per claimant, \$ 5,000 per claimant for a second violation, and \$10,000 per claimant for each subsequent violation, but not to exceed a total of \$20,000 per violation. The Office shall collect the penalty from the violator and distribute the funds collected among any employee or potential employee who filed a claim regarding a violation of this act.

(b) Nothing set forth in this act shall be construed as creating, establishing, or authorizing a private cause of action by an aggrieved person against an employer or employment agency who has violated, or is alleged to have violated, the provisions of this act.

Sec. 8. Rules.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act. The proposed rules shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 30-day review period, the proposed rules shall be deemed approved.

Sec. 9. Applicability.

This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 10. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 11. Effective date.

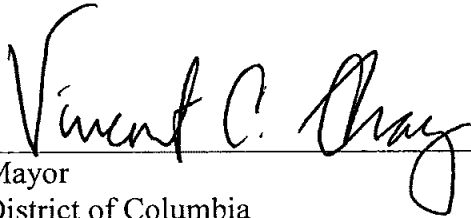
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
March 19, 2012