

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1700

By: Johnson (Rob)

AS INTRODUCED

An Act relating to discrimination; amending 25 O.S. 1991, Sections 1901, 1502, 1101 and 1301, as amended by Section 1, Chapter 100, O.S.L. 1992 (25 O.S. Supp. 1992, Section 1301), which relate to discrimination; clarifying language; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 25 O.S. 1991, Section 1901, is amended to read as follows:

Section 1901. A. If a charge for discrimination in employment on the basis of handicap is filed under the provisions of Sections 1101 through 1801 of Title 25 of the Oklahoma Statutes and is not resolved to the satisfaction of the charging party within one hundred eighty (180) days from the filing of such charge, the charging party ~~may~~ is authorized to commence an action for redress against any person who is alleged to have discriminated against the charging party and against any person named as respondent in the charge, such action to be commenced in the district court of this state for the county in which the unlawful employment practice is alleged to have been committed.

B. Either party in any such action shall be entitled to a jury trial of any facts in dispute in the action.

C. If it is determined in such action that the defendant or defendants in such action have discriminated against the charging party on the basis of handicap as charged in the petition, the aggrieved party shall be entitled to nominal or actual damages. Actual damages shall include, but are not limited to, reinstatement or hiring, with or without back pay, or any other legal or equitable relief as the court deems appropriate. Back pay liability shall not accrue from a date more than two (2) years prior to the filing of the charge with the Oklahoma Human Rights Commission. Interim earnings or amounts earnable with reasonable diligence by the person discriminated against shall operate to reduce the back pay otherwise allowable. No order of the court shall require the hiring or reinstatement or promotion of an individual as an employee, or the payment to him of any back pay, if such individual was refused employment or advancement or was suspended or discharged for legitimate reasons other than discrimination on account of handicap.

D. In any action or proceeding under this section the court shall allow a prevailing party a reasonable attorneys fee.

E. No action shall be maintainable in district court as herein provided more than two (2) years after a timely filing of a charge with the Oklahoma Human Rights Commission.

SECTION 2. AMENDATORY 25 O.S. 1991, Section 1502, is amended to read as follows:

Section 1502. A. A person claiming to be aggrieved by a discriminatory practice, his attorney, the Attorney General, a nonprofit organization chartered for the purpose of combatting discrimination or a member of the Commission, ~~may~~ is authorized to file with the Commission a written sworn complaint stating that a discriminatory practice has been committed, and setting forth the facts upon which the complaint is based, and setting forth facts

sufficient to enable the Commission to identify the person charged, hereinafter called the respondent. The Commission or a member of the Commission or the staff shall promptly furnish the respondent with a copy of the complaint and shall promptly investigate the allegations of discriminatory practice set forth in the complaint. The complaint must be filed within one hundred eighty (180) days after the alleged discriminatory practice occurs.

B. If within sixty (60) days after the complaint is filed it is determined by the Commission or a member of the Commission or the staff that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the Commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the Attorney General and such other public officers and persons as the Commission deems proper.

C. The complainant, within thirty (30) days after receiving a copy of an order dismissing the complaint, may file with the Commission an application for reconsideration of the order. Upon such application, the Commission or a designated member of the Commission shall make a new determination whether there is a reasonable cause to believe that the respondent has engaged in a discriminatory practice. If it is determined within thirty (30) days after the application is filed that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the Commission shall issue an order dismissing the complaint and furnish a copy of the order to the complainant, the respondent, the Attorney General, and such other public officers and persons as the Commission deems proper.

D. This section does not apply to persons claiming to be aggrieved by a discriminatory housing practice to the extent that it is inconsistent with specific provisions of this act relating to a discriminatory housing complaint.

SECTION 3. AMENDATORY 25 O.S. 1991, Section 1101, is amended to read as follows:

Section 1101. A. The general purposes of this act are to provide for execution within the state of the policies embodied in the federal Civil Rights Act of 1964, the federal Age Discrimination in Employment Act of 1967, and Section 504 of the federal Rehabilitation Act of 1973 to make uniform the law of those states which enact this act, and to provide rights and remedies substantially equivalent to those granted ~~under~~ pursuant to the federal Fair Housing Law.

B. This act shall be construed according to the fair import of its terms and shall be liberally construed to further the general purposes stated in this section and the special purposes of the particular provision involved.

SECTION 4. AMENDATORY 25 O.S. 1991, Section 1301, as amended by Section 1, Chapter 100, O.S.L. 1992 (25 O.S. Supp. 1992, Section 1301), is amended to read as follows:

Section 1301. In Sections 1101 through 1706 of this title:

1. "Employer" means a person who has fifteen or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, or a person who as a contractor or subcontractor is furnishing the material or performing work for the state or a governmental entity or agency of the state and includes an agent of such a person but does not include an Indian tribe or a bona fide membership club not organized for profit;

2. "Employment agency" means a person regularly undertaking 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 such a person;

3. "Labor organization" includes:

- a. an organization of any kind, an agency or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment,
- b. a conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, or
- c. an agent of a labor organization;

4. "Handicapped person" means a person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such an impairment or is regarded as having such an impairment; and

5. "Age discrimination in employment" means discrimination in employment of persons who are ~~at least~~ forty (40) years of age or older.

SECTION 5. This act shall become effective September 1, 1993.

44-1-5558

MCD