

## ● STATE FAIR EMPLOYMENT PRACTICES ACT

*STATUTORY CITATION:* 28 R.I. Gen. Laws §§ 28-5-1 – 28-5-43

*GENERAL SUMMARY:* The State Fair Employment Practices Act affirms the right of most individuals in Rhode Island to equal employment opportunities, regardless of race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin. More specifically, the Act outlaws certain specified practices that are contrary to this policy, and establishes an administrative mechanism for resolving worker complaints charging any such violation.

The law generally applies to employers with 4 or more employees, and protects workers in all areas of employment other than domestic service.

### *SPECIFIC TERMS AND CONDITIONS*

**UNLAWFUL EMPLOYMENT PRACTICES** — Employers with 4 or more employees are prohibited from engaging in any of the following practices, among others:

- (1) Refusing to hire a job applicant because of the applicant's race, color, religion, sex, sexual orientation, gender identity or expression, disability, age (40 or over), or country of ancestral origin.
- (2) Discharging or discriminating against an employee, on any of the same grounds, with respect to tenure, compensation, terms or privileges of employment, or any other matter related to employment.
- (3) Utilizing for recruitment or hiring purposes any employment agency, placement service, training provider, labor organization, or any other source of job applicants that the employer has reasonable cause to know discriminates against individuals because of their race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin.
- (4) Using any form of job application containing questions or entries directly or indirectly pertaining to race, color, religion, sex, sexual orientation, gender identity or expression, disability, age, or country of ancestral origin, unless any such factor is a bona fide occupational qualification for the job involved.
- (5) Publishing or circulating any employment advertisement or notice indicating a preference, limitation or bias based on race, color, religion, sex, disability, age, or country of ancestral origin.
- (6) Refusing to reasonably accommodate a worker's or prospective worker's disability, unless the employer can demonstrate that the accommodation would impose a hardship on the employer's business.

Employment agencies and labor organizations are subject to comparable proscriptions against discrimination.

**COMPLAINTS** — Any individual who has been subjected to discriminatory treatment or suffered from a discriminatory practice outlawed by the Fair Employment Practices Act may file a complaint with the state enforcement agency. When preliminary investigation of the allegations yields probable cause to believe a violation has occurred, the agency must attempt to negotiate a conciliation agreement under which the employer or other respondent named in the complaint pledges to refrain from further unlawful employment discrimination. Failure to reach an informal accord will generally lead to formal written charges against the respondent and a subsequent hearing to allow the respondent to answer them. If the hearing record supports a conclusion that a violation of the Act was committed by the respondent, the agency may issue an order requiring cessation of the illegal employment practice and appropriate corrective action, including such affirmative measures as hiring, reinstatement, or job upgrading, with or without back pay.

### *SPECIAL NOTES OR ADVISORIES*

**RETALIATION** — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** — *Rhode Island Commission for Human Rights, Providence, Rhode Island 02903 (401-222-2661)*. The Commission has explicit authority to hold hearings, subpoena witnesses, take testimony, examine personnel records and related documents, and issue enforceable orders for compliance.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** — *None*.

**PRIVATE CIVIL ACTION** — If, not less than 120 days and no more than 2 years after the filing of a charge, the Commission has not been able to reach a settlement or conciliation agreement and has not commenced the hearing process, a worker may request a "notice of right to sue" from the Commission, which must provide the notice within 30 days of the request. The issuance of the right to sue terminates all proceedings before the Commission and allows the worker to file suit against the violator directly, using a private attorney or public legal service provider. Any such suit, however, must be filed within 90 days after the right to sue is issued.