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Reps. Barbieri, Gilligan, Jaques, J. Johnson, Kowalko, Longhurst, M. Marshall, Mitchell, Mulrooney, Plant, Schooley, B. Short, Viola, D.E. Williams, D.P. Williams; Sens. Blevins, Bunting, Bushweller, Henry, Peterson

HOUSE OF REPRESENTATIVES
145th GENERAL ASSEMBLY

HOUSE BILL NO. 5

AN ACT TO AMEND TITLES 6, 9, 18, 19, 25 AND 29 OF THE DELAWARE CODE RELATING TO DISCRIMINATION IN EMPLOYMENT, PUBLIC WORKS CONTRACTING, HOUSING, EQUAL ACCOMMODATIONS AND THE INSURANCE BUSINESS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 4501, Title 6, Delaware Code, by inserting the words ", sexual orientation" after the word
2 "handicap" wherever it appears in this Section.

3 Section 2. Amend § 4502, Title 6, Delaware Code, by re-designating current subsections "(13)" and "(14)" as
4 subsections "(14)" and "(15)" and adding a new subsection, designated as § 4502(13), to read as follows:

5 "(13) 'Sexual orientation' exclusively means heterosexuality, homosexuality, or bisexuality."

6 Section 3. Amend § 4503, Title 6, Delaware Code, by inserting the words ", sexual orientation" after the word
7 "handicap".

8 Section 4. Amend § 4504, Title 6, Delaware Code, by inserting the words ", sexual orientation" after the word
9 "handicap" wherever it appears in this Section.

10 Section 5. Amend § 4601, Title 6, Delaware Code, by inserting the words ", sexual orientation" after the word
11 "age".

12 Section 6. Amend § 4602, Title 6, Delaware Code, by re-designating current subsections "(22), (23), (24) and
13 (25)", respectively, as subsections "(23), (24), (25) and (26)", respectively, and adding a new subsection, designated as §
14 4602(22), to read as follows:

15 "(22) 'Sexual orientation' exclusively means heterosexuality, homosexuality, or bisexuality."

16 Section 7. Amend § 4603, Title 6, Delaware Code, by inserting the words ", sexual orientation" after the word
17 "age" wherever it appears in this Section.

18 Section 8. Amend § 4604, Title 6, Delaware Code, by inserting the words ", sexual orientation" after the word
19 "age" wherever it appears in this Section.

20 Section 9. Amend § 4605, Title 6, Delaware Code, by inserting the words ", sexual orientation" after the word
21 "age".

22 Section 10. Amend the first sentence of subsection (c), § 4607, Title 6, Delaware Code, by inserting the words ",
23 sexual orientation" after the word "age".

24 Section 11. Amend § 4619, Title 6, Delaware Code, by inserting the words ", sexual orientation" after the word
25 "sex", wherever it appears therein.

26 Section 12. Amend § 1183(a)(1), Title 9, Delaware Code, by inserting the words ", or sex or sexual orientation"
27 after the word "affiliations."

28 Section 13. Amend § 2304, Title 18, Delaware Code, subsection (22) by inserting the words ", sexual orientation"
29 after the word "religion" wherever it appears.

30 Section 14. Amend § 2304(22), Title 18, Delaware Code, by re-designating the current subsections "b., c., d., e.,
31 f., g., h., i., j., and k.", respectively, as subsections "c., d., e., f., g., h., i., j., k. and l.", respectively, and by adding a new
32 subsection "b" to read as follows:

33 "b. 'Sexual orientation' exclusively means heterosexuality, homosexuality, or bisexuality."

34 Section 15. Amend § 710, Title 19, Delaware Code, to add a new subsection "(18)" to read as follows:

35 "(18) 'Sexual orientation' exclusively means heterosexuality, homosexuality, or bisexuality."

36 Section 16. Amend § 710(6), Title 19, Delaware Code, by adding the following sentence at the end of the
37 subsection:

38 "The term 'employer' with respect to discriminatory practices based upon sexual orientation does not
39 include religious corporations, associations or societies whether supported, in whole or in part, by government
40 appropriations, except where the duties of the employment or employment opportunity pertain solely to activities
41 of the organization that generate unrelated business taxable income subject to taxation under § 511(a) of the
42 Internal Revenue Code of 1986."

43 Section 17 Amend § 711, Title 19, Delaware Code, to insert the words ", sexual orientation," between the words
44 "sex" and "or national origin" whenever they appear therein.

45 Section 18. Amend § 711(b), Title 19, Delaware Code, to insert the words ", sexual orientation," between the
46 words "sex" and "or national origin."

47 Section 19. Amend § 711, Title 19, Delaware Code, by adding a new subsection (k) to read as follows:

48 "(k) Nothing in this subchapter shall be interpreted to require employers to offer health, welfare, pension
49 or other benefits to persons associated with employees on the basis as such benefits are afforded to the spouses of
50 married employees."

51 Section 20. Amend § 5141, Title 25, Delaware Code, by re-designating current subsections "(27), (28) and (29)"
52 as subsections "(28), (29) and (30)", respectively, and by adding a new subsection, designated as § 5141(27), to read as
53 follows:

54 "(27) 'Sexual orientation' exclusively means heterosexuality, homosexuality, or bisexuality."

55 Section 21. Amend § 5116, Title 25, Delaware Code, by inserting the words ", sexual orientation," after the word
56 "sex," wherever it appears in this section.

57 Section 22. Amend § 5953, Title 29, Delaware Code, by inserting the words ", sexual orientation, sex" after the
58 word "affiliations."

59 Section 23. Amend § 6962(d)(7), Title 29, Delaware Code, by inserting the words ", sexual orientation" after the
60 word "sex" wherever it appears in that subsection.

61 Section 24. The inclusion in this Act of the words "sexual orientation" is intended to ensure equal rights and not
62 to endorse or confer legislative approval of any unlawful conduct.

63 Section 25. If any provision of this Act or the application thereof to any person or circumstance is held invalid,
64 such invalidity shall not affect other provisions or application of the Act which can be given effect without the invalid
65 provision or application, and to that end the provisions of this Act are declared to be severable.

66 Section 26. Amend Chapter 45, Title 6, Delaware Code, by adding thereto the following:

67 "§ 4513. Criminal Jurisdiction.

68 The Superior Court shall have exclusive original jurisdiction over all criminal violations of this Chapter."

69 Section 27. Amend Chapter 46, Title 6, Delaware Code, by adding thereto the following:

70 "§ 4620. Criminal Jurisdiction.

71 The Superior Court shall have exclusive original jurisdiction over all criminal violations of this Chapter."

72 Section 28. Amend Subchapter II, Chapter 7, Title 19, Delaware Code, by adding thereto the following:

73 "§ 719. Criminal Jurisdiction.

74 The Superior Court shall have exclusive original jurisdiction over all criminal violations of this subchapter."

SYNOPSIS

This Act adds the term "sexual orientation" to the already-existing list of prohibited practices of discrimination. As such, this Act would forbid discrimination against a person on the basis of sexual orientation in housing, employment, public works contracting, public accommodations, and insurance. In addition, this Act would establish that the Superior Court, in the first instance, would hear and adjudicate alleged criminal violations under the Act of equal accommodations, fair housing and employment discrimination.