

2022 Regular Session

HOUSE BILL NO. 143

BY REPRESENTATIVE BUTLER

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(31) and R.S. 46:2592 and to enact R.S. 46:2594
3 through 2597, relative to executive branch agency compliance with the Americans
4 with Disabilities Act; to provide for mandatory agency policies, training, plans, and
5 reporting related to the Americans with Disabilities Act; to provide for an effective
6 date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 44:4.1(B)(31) is hereby amended and reenacted to read as follows:

9 §4.1. Exceptions

10 * * *

11 B. The legislature further recognizes that there exist exceptions, exemptions,
12 and limitations to the laws pertaining to public records throughout the revised
13 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
14 limitations are hereby continued in effect by incorporation into this Chapter by
15 citation:

16 * * *

17 (31) R.S. 46:56, 236.1.1 through 238, 284, 286.1, 439.1, 446.1, 1073, 1355,
18 1806, 1844, 1862, 1923, 2124.1, 2134, 2187, 2356, 2416, 2597, 2603, 2625

19 * * *

1 Section 2. R.S. 46:2592 is hereby amended and reenacted and R.S. 46:2594 through
2 2597 are hereby enacted to read as follows:

3 §2592. Definitions

4 For purposes of this Chapter, the following terms have the meaning ascribed
5 to them in this Section:

6 (1) "Agency" means a department, office, division, agency, commission,
7 board, committee, or other organizational unit of the executive branch of state
8 government.

9 (2) "Americans with Disabilities Act agency coordinator" means an
10 individual designated to ensure Americans with Disabilities Act compliance for his
11 assigned agency.

12 ~~(3)~~ (3) "Americans with Disabilities Act" and "ADA" mean the Americans
13 with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 et seq.

14 (4) "Elected official" means any person holding an office in the executive
15 branch of state government that is filled by the vote of the appropriate electorate. It
16 also includes any person appointed to fill a vacancy in such an office.

17 ~~(5)~~ (5) "Office" means the office of the state Americans with Disabilities Act
18 coordinator within the office of the governor, division of administration.

19 (6) "Public employee" means anyone who is one of the following:

20 (a) An administrative officer or official of an agency who is not an elected
21 official.

22 (b) Appointed to a post or position created by rule, law, resolution,
23 ordinance, charter, or executive order.

24 (c) Employed by an agency.

25 (7) "Public servant" means a public employee or an elected official.

26 (8) "Supervisor" means a public employee or an elected official responsible
27 for overseeing the productivity, work behavior, and attendance of other public
28 employees of the agency.

29 * * *

1 §2594. Mandatory policy ensuring compliance with Americans with Disabilities Act

2 A. Each agency head shall develop and implement a policy to ensure
 3 compliance with the Americans with Disabilities Act which is applicable to all public
 4 servants of the agency, applicants for employment at the agency and members of the
 5 general public who seek or receive services or benefits from the agency.

6 B. Based on the business needs and organizational structure of the agency,
 7 the required policy may be formatted as a single policy, comprehensive policy, or
 8 comprised of multiple policies tailored to the specific facility, audience, or Titles of
 9 the Americans with Disabilities Act. At a minimum, the policy shall contain all of
 10 the following:

11 (1) It shall express the agency's commitment to engaging in the interactive
 12 process and providing reasonable accommodations to any individual with a disability
 13 for purposes of participating in the application and interview process, performing the
 14 essential functions of the job, providing equal opportunity to access the benefits and
 15 privileges of employment, ensuring effective communication, and providing equal
 16 opportunity to access the agency's programs, services, activities, and facilities.

17 (2) It shall provide for designating an Americans with Disabilities Act
 18 agency coordinator.

19 (3) It shall include a general description of the accommodation request
 20 process and indicate to whom such requests should be addressed if not to the
 21 Americans with Disabilities Act agency coordinator.

22 (4) It shall provide for documentation of the interactive process, including:
 23 accommodation requested and discussed, any other equally effective
 24 accommodations identified, business reasons for decisions made, and actions taken
 25 on the accommodation request.

26 (5) It shall specify an effective grievance process for prompt resolution of
 27 complaints regarding disposition of accommodation requests or alleging any action
 28 prohibited by the Americans with Disabilities Act.

29 (6) It shall include a clear prohibition against harassment, discrimination, or
 30 retaliation against an individual related to exercising or aiding in the exercise of

1 Americans with Disabilities Act rights or for having a relationship or association
2 with another individual with a known disability.

3 §2595. Mandatory training requirements

4 A.(1) An agency head shall require all supervisors in his agency to receive
5 a minimum of one hour of education and training on the Americans with Disabilities
6 Act within ninety days of hire or appointment to a supervisory position and every
7 three years thereafter.

8 (2) An agency head shall require Americans with Disabilities Act agency
9 coordinators in his agency to receive a minimum of one hour of education and
10 training on the Americans with Disabilities Act within ninety days of hire or
11 appointment to the role of Americans with Disabilities Act agency coordinator and
12 every three years thereafter.

13 B. The education and training required by this Section may be received in
14 person or via the internet through training and education materials approved by the
15 public servant's agency head.

16 C. Each agency head shall ensure that each public servant in the agency is
17 notified of the agency's Americans with Disabilities Act policy. Additionally, each
18 agency head shall ensure that each supervisor and Americans with Disabilities Act
19 agency coordinator are notified of the mandatory training requirement. The agency
20 head shall maintain records of compliance with the mandatory training requirement
21 by each supervisor and Americans with Disabilities Act agency coordinator. Each
22 supervisor's and Americans with Disabilities Act agency coordinator's record of
23 compliance shall be a public record and available to the public in accordance with
24 the Public Records Law.

25 D. Each agency head shall ensure that its Americans with Disabilities Act
26 policy and complaint procedures are prominently posted on its publicly accessible
27 website. If the agency does not have a website, a notice providing instruction on
28 how to obtain these documents shall be posted in a conspicuous location in each of
29 the agency's offices.

1 §2596. Mandatory reports for Americans with Disabilities Act

2 A. Each agency head shall compile an annual report containing information
3 from the previous calendar year regarding his agency's compliance with the
4 requirements of this Chapter. The report shall include: the number and percentage
5 of supervisors and Americans with Disabilities Act agency coordinators,
6 respectively, in his agency who have completed the training requirements; the
7 number of accommodation requests received by his agency; the number, nature, and
8 cost of accommodation requests granted; the number of accommodation requests
9 denied; and the amount of time required to resolve each request from date of receipt
10 to the date the individual was notified in writing of the final determination of the
11 request. The report shall also include the number of Americans with Disabilities
12 Act-related charges of discrimination filed with the U.S. Equal Employment
13 Opportunity Commission, Louisiana Commission on Human Rights, and the U.S.
14 Department of Justice and civil actions filed in state or federal court. The data
15 provided shall be used for tracking purposes only and shall not include personally
16 identifying information such as the requestor's name or references to confidential
17 medical conditions or impairments. These reports shall be a public record and
18 available to the public in accordance with the Public Records Law.

19 B. An agency head shall submit the report required by Subsection A of this
20 Section by February first of each year, with the initial report being due by
21 February 1, 2024, for the 2023 calendar year, to the office.

22 §2597. State as a model employer

23 Agency heads shall:

24 (1) Ensure that all employees, at the time of employment and every five
25 years thereafter, complete a voluntary self-identification of disability form for
26 effective data collection and analysis of the percentage of individuals with
27 disabilities employed by the agency. The form shall only request disclosure
28 regarding whether an employee has a disability, without reference to or identification
29 of the actual impairment, disability, or medical condition. The completed form shall
30 be confidential and filed in a folder separate from the employee's personnel file.

1 (2) Prepare and submit an agency plan, by December first of each year, to
 2 the office that includes the strategies and goals for the upcoming year and the
 3 progress and outcomes for the current year, related to employment of individuals
 4 with disabilities. The agency plan shall be formatted in the manner prescribed by the
 5 office and include a comparison of the percentage of individuals with disabilities
 6 employed by his agency from the previous to current year based on data from the
 7 self-identification process outlined in Paragraph (1) of this Section.

8 Section 2. This Act shall become effective upon signature by the governor or, if not
 9 signed by the governor, upon expiration of the time for bills to become law without signature
 10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 11 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 12 effective on the day following such approval.

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 PRESIDENT OF THE SENATE

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____