

Regular Session, 2014

SENATE BILL NO. 412

BY SENATOR MORRELL

EMPLOYMENT. Provides with respect to retaliation in employment. (8/1/14)

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AN ACT

To amend and reenact R.S. 51:2231(C), 2232(12) and (13), the introductory paragraph of 2235 and (9), 2237(1), and 2256 and to enact R.S. 23:304, relative to employer retaliation; to provide with respect to the Louisiana Commission on Human Rights; to provide with respect to whistle blower protection in discrimination cases; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:304 is hereby enacted to read as follows:

§304. Retaliation

A. It shall be unlawful for an employer to discriminate, retaliate, terminate, or take any adverse employment action against any employee for inquiring about, disclosing, comparing, or otherwise discussing the employee's wages or the wages of any other employee, or aiding or encouraging any other employee to exercise his rights pursuant to this Chapter.

B. Any employee who has filed a complaint or instituted any proceeding or investigation relative to discrimination pursuant to this Section, or any employee who has provided any information in connection with an inquiry or

1 proceeding relative to any discrimination pursuant to this Section shall be
2 protected by, and may institute and action pursuant to R.S. 23:967 or R.S.
3 51:2256.

4 C. The investigation of any claim brought under this Section may be
5 conducted by the Louisiana Commission on Human Rights as provided in
6 R.S.23:303.

7 Section 2. R.S. 51:2231(C), 2232(12) and (13), the introductory paragraph of 2235
8 and (9), 2237(1), and 2256 are hereby amended and reenacted to read as follows:

9 §2231. Statement of purpose; limitation on prohibitions against discrimination
10 because of age

11 * * *

12 C. The Louisiana Commission on Human Rights shall have enforcement
13 powers including adjudication of claims of discrimination prohibited by ~~R.S. 23:312,~~
14 ~~323, and 332,~~ sickle cell trait discrimination prohibited by R.S. 23:352, and
15 ~~discrimination because of pregnancy prohibited by R.S. 23:341 et seq.~~ **Chapter 3-A**
16 **of Title 23 of the Louisiana Revised Statutes of 1950.**

17 §2232. Definitions

18 As used in this Chapter:

19 * * *

20 (12) "Discriminatory practice in connection with employment" means an
21 employment practice prohibited by ~~R.S. 23:312, 323, or 332~~ **Chapter 3-A of Title**
22 **23 of the Louisiana Revised Statutes of 1950.**

23 (13) "Unlawful practice" means a discriminatory practice in connection with
24 employment, a discriminatory practice in connection with public accommodations,
25 or any other practice prohibited by this Chapter **or by Chapter 3-A of Title 23 of**
26 **the Louisiana Revised Statutes of 1950.**

27 * * *

28 §2235. Powers and duties of commission

29 In the enforcement of this Chapter **or of Chapter 3-A of Title 23 of the**

1 **Louisiana Revised Statutes of 1950**, the commission shall have the following
2 powers and duties:

3 * * *

4 (9) To receive, initiate, investigate, seek to conciliate, hold hearings on, and
5 pass upon complaints alleging violations of this Chapter **or of Chapter 3-A of Title**
6 **23 of the Louisiana Revised Statutes of 1950**.

7 * * *

8 §2237. Local human rights commissions

9 Any parish or municipality, or one or more parishes and municipalities acting
10 jointly, may create a human rights commission, hereinafter referred to as a "local
11 commission":

12 (1) To provide for execution within its jurisdiction of the policies embodied
13 in this Chapter, **Chapter 3-A of Title 23 of the Louisiana Revised Statutes of**
14 **1950**, and the Federal Civil Rights Act of 1964 (78 Stat. 241).

15 * * *

16 §2256. Conspiracy to violate ~~this Chapter~~ **human rights and discrimination laws**
17 unlawful

18 It shall be an unlawful practice for a person or for two or more persons to
19 conspire:

20 (1) To retaliate or discriminate in any manner against a person because he
21 has opposed a practice declared unlawful by this Chapter **or by Chapter 3-A of**
22 **Title 23 of the Louisiana Revised Statutes of 1950**, or because he has made a
23 charge, filed a complaint, testified, assisted, or participated in any manner in any
24 investigation, proceeding, or hearing under this Chapter **or by Chapter 3-A of Title**
25 **23 of the Louisiana Revised Statutes of 1950**.

26 (2) To aid, abet, incite, compel, or coerce a person to engage in any of the
27 acts or practices declared unlawful by this Chapter **or by Chapter 3-A of Title 23**
28 **of the Louisiana Revised Statutes of 1950**.

29 (3) To obstruct or prevent a person from complying with the provisions of

1 this Chapter **or by Chapter 3-A of Title 23 of the Louisiana Revised Statutes of**
2 **1950** or any order issued thereunder.

3 (4) To resist, prevent, impede, or interfere with the commission, or any of
4 its members or representatives, in the lawful performance of duty under this Chapter
5 **or by Chapter 3-A of Title 23 of the Louisiana Revised Statutes of 1950.**

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Mary Dozier O'Brien.

DIGEST

Morrell (SB 412)

Present law protects an employee from reprisal in specific situations relative to information given by an employee regarding any violation of labor laws.

Proposed law creates a provision regarding protection for retaliation in employment to the Chapter in which the discrimination statutes exist.

Present law defines "discriminatory practice in connection with employment" to include employment practices prohibited by Title 23 of the La. R.S., including age, disability, race, color, religion, sex, or national origin.

Proposed law retains present law and extends the definition of "discriminatory practice in connection with employment" to include all of the discrimination statutes in Chapter 3-A of Title 23 of the La. R.S., which would add veterans, pregnancy, childbirth, and related medical conditions, sickle cell traits, and genetic information.

Proposed law clarifies that the procedures in present law shall be used in the investigation and complaint process for all employment discrimination laws, including the power of the Louisiana Commission on Human Rights to investigate issues of employer retaliation.

Effective August 1, 2014.

(Amends R.S. 51:2231(C), 2232(12) and (13), 2235(intro para) and (9), 2237(1), and 2256; adds R.S. 23:304)