

2022 Regular Session

HOUSE BILL NO. 143

BY REPRESENTATIVE BUTLER

STATE AGENCIES: Provides for development and implementation by state agencies of policies, training, and reporting relative to compliance with requirements of the Americans with Disabilities Act

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)(1) 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 (~~1~~) (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 (~~2~~) (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 \* \* \*

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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  
14        the essential functions of the job, providing equal opportunity to access the benefits  
15        and privileges of employment, ensuring effective communication, and providing  
16        equal 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.

1           (6) It shall include a clear prohibition against harassment, discrimination, or  
2           retaliation against an individual related to exercising or aiding in the exercise of  
3           Americans with Disabilities Act rights or for having a relationship or association  
4           with another individual with a known disability.

5           §2595. Mandatory training requirements

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

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

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

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

27           D. Each agency head shall ensure that its Americans with Disabilities Act  
28           policy and complaint procedures are prominently posted on its publicly accessible  
29           website. If the agency does not have a website, a notice providing instruction on

1 how to obtain these documents shall be posted in a conspicuous location in each of  
2 the agency's offices.

3 §2596. Mandatory reports for Americans with Disabilities Act

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

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

24 §2597. State as a model employer

25 Agency heads shall:

26 (1) Ensure that all employees, at the time of employment and every five  
27 years thereafter, complete a voluntary self-identification of disability form for  
28 effective data collection and analysis of the percentage of individuals with  
29 disabilities employed by the agency. The form shall only request disclosure

1 regarding whether an employee has a disability, without reference to or identification  
 2 of the actual impairment, disability, or medical condition. The completed form shall  
 3 be confidential and filed in a folder separate from the employee's personnel file.

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

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

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 143 Engrossed

2022 Regular Session

Butler

**Abstract:** Provides for development and implementation by executive branch state agencies of policies, training, and reporting relative to the Americans with Disabilities Act (ADA).

Proposed law requires each agency head in the executive branch of the state to develop and implement a policy to ensure ADA compliance applicable to all public servants of the agency, applicants for employment and members of the general public who seek or receive services or benefits from the agency. Further provides for the content and requirements of such policy.

Proposed law provides that each agency head in the executive branch of the state shall require all supervisors and ADA coordinators to receive education and training on the ADA within 90 days of hire or appointment and every three years after. Further provides that the agency head in the executive branch of the state shall be responsible for maintaining records of compliance with the mandatory training requirement. Each supervisor's and coordinator's record of compliance is a public record.

Proposed law requires each agency head in the executive branch of the state to compile an annual report containing information from the previous calendar year, with the initial report

being submitted by Feb. 1, 2024, regarding his agency's compliance with the requirements of proposed law. Further provides for the content of such report and to whom such report shall be submitted.

Proposed law requires each agency head in the executive branch of the state to report the percentage of individuals with disabilities employed by his agency for data collection and analysis purposes and to prepare a plan regarding employment of persons with disabilities.

Proposed law requires agency heads to ensure that employees complete a voluntary self-identification of a disability form every five years.

Proposed law provides that the self-identification forms are exempt from disclosure pursuant to the Public Records Law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 44:4.1(B)(31) and R.S. 46:2592; Adds R.S. 46:2594–2597)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Change the scope of proposed law application from all state agencies to agencies within the executive branch of the state.
2. Add provision that self-identification forms required by proposed law are exempt from disclosure pursuant to the Public Records Law.