

FILED FEB 16 1968

SENATE FILE 2373
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2174)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing civil penalties for certain civil rights
2 violations.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2373

1 Section 1. Section 601A.6, subsection 1, paragraphs a and
2 b, Code 1989, are amended to read as follows:

3 a. Person to refuse to hire, accept, register, classify,
4 or refer for employment, to discharge any employee, or to
5 otherwise discriminate in employment against any applicant for
6 employment or any employee because of the age, race, creed,
7 color, sex, national origin, religion, or disability, or
8 association with protected class members, of such applicant or
9 employee, unless based upon the nature of the occupation. If
10 a disabled person is qualified to perform a particular
11 occupation, by reason of training or experience, the nature of
12 that occupation shall not be the basis for exception to the
13 unfair or discriminating practices prohibited by this
14 subsection.

15 b. Labor organization or the employees, agents or members
16 thereof to refuse to admit to membership any applicant, to
17 expel any member, or to otherwise discriminate against any
18 applicant for membership or any member in the privileges,
19 rights, or benefits of such membership because of the age,
20 race, creed, color, sex, national origin, religion, or
21 disability, or association with protected class members, of
22 such applicant or member.

23 Sec. 2. Section 601A.8, subsection 1, Code 1989, is
24 amended to read as follows:

25 1. To refuse to sell, rent, lease, assign or sublease any
26 real property or housing accommodation or part, portion or
27 interest therein, to any person because of the race, color,
28 creed, sex, religion, national origin, or disability, or
29 association with protected class members, of such person.

30 Sec. 3. Section 601A.15, subsection 1, Code 1989, is
31 amended to read as follows:

32 1. Any person claiming to be aggrieved by a discriminatory
33 or unfair practice may, ~~in person or by an attorney,~~ either
34 commence an action in district court, or make, sign, and file
35 with the commission in person or by an attorney a verified,

1 written complaint ~~in triplicate~~ which shall state the name and
 2 address of the person, employer, employment agency, or labor
 3 organization alleged to have committed the discriminatory or
 4 unfair practice of which complained, shall set forth the
 5 particulars thereof, and shall contain such other information
 6 as may be required by the commission. The commission, a
 7 commissioner, or the attorney general may in like manner make,
 8 sign, and file such complaint.

9 Sec. 4. Section 601A.15, Code 1989, is amended by adding
 10 the following new subsection:

11 NEW SUBSECTION. 13. For purposes of this chapter, the
 12 commission has primary jurisdiction concerning a complaint
 13 which asserts that an agency action has resulted in a
 14 violation of a person's civil rights and such complaint is not
 15 subject to the exclusive review provisions of section 17A.19.

16 Sec. 5. Section 601A.16, subsections 1 and 2, Code 1989,
 17 are amended to read as follows:

18 1. A person claiming to be aggrieved by an unfair or
 19 discriminatory practice ~~must initially~~ may either seek an
 20 administrative relief by filing a complaint with the
 21 commission in accordance with section 601A.15, or by
 22 commencing an action in district court. This provision also
 23 applies to persons claiming to be aggrieved by an unfair or
 24 discriminatory practice committed by the state or an agency or
 25 political subdivision of the state, notwithstanding the terms
 26 of the Iowa administrative procedure Act. ~~A complainant after~~
 27 ~~the proper filing of~~ If a person has filed a complaint with
 28 the commission, the person may subsequently commence an action
 29 for relief in the district court if all of the following
 30 conditions have been satisfied:

31 a. The complainant has timely filed the complaint with the
 32 commission as provided in section 601A.15, ~~and section 127 and.~~

33 b. The complaint has been on file with the commission for
 34 at least ~~one hundred twenty~~ three hundred eighty-five days and
 35 the commission has issued a release to the complainant.

1 pursuant to subsection 2 of this section.

2 2. ~~Upon a request by the complainant, and after~~ After the
3 expiration of ~~one hundred twenty three hundred sixty-five~~ three hundred sixty-five days
4 from the timely filing of a complaint with the commission, the
5 ~~commission shall issue to the complainant a release stating~~
6 ~~that the complainant has a right to commence an action in the~~
7 ~~district court. A release under this subsection shall not be~~
8 ~~issued if a finding of no probable cause has been made on the~~
9 ~~complaint by the administrative law judge charged with that~~
10 ~~duty under section 661A.15, subsection 3, or a conciliation~~
11 ~~agreement has been executed under section 601A.15, or the~~
12 ~~commission has served notice of hearing upon the respondent~~
13 ~~pursuant to section 601A.15, subsection 5~~ the complainant or
14 respondent may file a petition for removal with the district
15 court in the county in which the respondent resides or has its
16 principal place of business, or in the county in which the
17 alleged unfair or discriminatory practice occurred. If the
18 petition for removal is filed by the respondent, and the
19 complainant is not represented by counsel, the district court
20 may appoint counsel for the complainant upon a showing of
21 indigency. If the respondent successfully defends the action,
22 the court-appointed attorney fees shall be paid from the
23 indigent defense fund pursuant to chapter 815. If the
24 complainant successfully prosecutes the action, the court-
25 appointed attorney fees shall be taxed as court costs.

26 Sec. 6. Section 601A.16, subsections 3 and 4, Code 1989,
27 are amended by striking the subsections.

28 Sec. 7. NEW SECTION. 601A.20 DAMAGES.

29 In all cases except where the complaint alleges
30 discrimination in employment, exemplary damages not to exceed
31 twenty-five thousand dollars may be awarded where the
32 respondent acted with deliberate indifference or with willful
33 or reckless disregard of the rights of the complainant.

34 The commission shall adopt rules for the purpose of
35 assisting in the determination of the amount of the penalty to

1 be assessed by the administrative law judge. Upon a
2 determination under this section of the total amount of
3 exemplary damages to be assessed against the respondent, the
4 administrative law judge shall order that seventy-five percent
5 of the award be paid to the complainant and the remaining
6 twenty-five percent be paid to the commission for the
7 administration of this chapter.

8

EXPLANATION

9 This bill prohibits violating an individual's civil rights
10 on the basis of association with protected class members. A
11 person claiming to be aggrieved may file an action in district
12 court. If no action is taken after filing a petition with the
13 commission after 365 days, the aggrieved party may petition to
14 have the action removed to district court.

15 Exemplary damages may be awarded in an amount not to exceed
16 \$25,000 with 75 percent of the award distributed to the
17 complainant and 25 percent to the commission for
18 administrative expenses.

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SENATE FILE 2373

S-5107

1 Amend Senate File 2373 as follows:

2 1. Page 3, line 31, by striking the word "twenty-
3 five" and inserting the following: "fifteen".

By LINN FUHRMAN

S-5107 FILED FEBRUARY 19, 1990

SENATE FILE 2373

S-5133

1 Amend Senate File 2373 as follows:

2 1. By striking page 1, line 30, through page 2,
3 line 8.

4 2. By striking page 2, line 16, through page 3,
5 line 27.

6 3. Renumber as necessary.

By TOM MANN, Jr.

S-5133 FILED FEBRUARY 19, 1990

SENATE FILE 2373

S-5142

1 Amend Senate File 2373 as follows:

2 1. Page 3, line 31, by striking the word "twenty-
3 five" and inserting the following: "fifteen".

4 2. Page 4, by striking lines 1 through 7 and
5 inserting the following: "be assessed by the
6 administrative law judge."

By LINN FUHRMAN

S-5142 FILED FEBRUARY 20, 1990

MANN, CH.
MURPHY
FURMAN

SSB 2174
JUDICIARY

SENATE FILE 2373
BY (PROPOSED CIVIL RIGHTS
COMMISSION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing civil penalties for certain civil rights
2 violations.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 601A.15, subsection 8, Code 1989, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. d. Upon a finding that the respondent has
4 engaged in a discriminatory or unfair practice under sections
5 601A.7 through 601A.11, the administrative law judge may also
6 assess a civil penalty against the respondent as follows:

7 (1) Ten thousand dollars for a first violation.

8 (2) Twenty-five thousand dollars for a second violation.

9 However, a finding that the respondent has engaged in a
10 discriminatory or unfair practice which occurred more than
11 five years prior to the date of filing of the present charge
12 determined to be a violation, shall not be considered when
13 determining whether the latest finding is a second violation.

14 (3) Fifty thousand dollars for a third or subsequent
15 violation. However, a finding that the respondent has engaged
16 in a discriminatory or unfair practice which occurred more
17 than seven years prior to the date of filing of the present
18 charge determined to be a violation, shall not be considered
19 when determining whether the latest finding is a third or
20 subsequent violation.

21 If the respondent is a natural person, the time limitations
22 contained in subparagraphs (2) and (3) for determining whether
23 a violation is a second or subsequent violation do not apply.

24 If the violation involves two or more respondents, the
25 administrative law judge may assess a civil penalty against
26 each respondent as provided for in this paragraph. A civil
27 penalty collected pursuant to this paragraph shall be
28 deposited in the general fund of the state.

29 EXPLANATION

30 This bill establishes a series of civil penalties for
31 violations of a person's civil rights. The penalties would
32 apply to sections 601A.7 (accommodations or services), 601A.8
33 (housing), 601A.9 (education), 601A.10 (unfair credit
34 practices), and 601A.11 (aiding or abetting). The penalty
35 would not apply to section 601A.6 (unfair employment

1 practices). The penalty would be \$10,000 for a first
2 violation, \$25,000 for a second violation within a five-year
3 period, and \$50,000 for a third or subsequent violation within
4 a seven-year period. However, these time restrictions would
5 not apply to violations committed by the same natural person.

6 BACKGROUND STATEMENT

7 SUBMITTED BY THE AGENCY

8 The Iowa civil rights commission proposes the following
9 legislation for a schedule of civil penalties. The civil
10 penalties would apply to sections 601A.7 through 601A.11, but
11 would not include 601A.6, unfair employment practices. The
12 sections included are:

- 13 1. Unfair practices - accommodations or services (601A.7).
- 14 2. Unfair or discriminatory practices - housing (601A.8).
- 15 3. Unfair or discriminatory practices - education
16 (601A.9).
- 17 4. Unfair credit practices (601A.10).
- 18 5. Aiding or abetting (601A.11). The establishment of
19 this schedule is required in order for the Iowa civil rights
20 commission to meet the civil penalties portion of the federal
21 department of housing and urban development (HUD) requirement
22 that Iowa civil rights law be substantially equivalent to the
23 federal 1988 Fair Housing Amendments.

24 The impact on the civil rights commission would be the
25 addition of an effective deterrent to discrimination.

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