

SENATE BILL NO. 437

INTRODUCED BY C. GLIMM

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE DEFINITION FOR THE WORDS SEX, FEMALE, ~~AND MALE, MAN, WOMAN, FATHER, AND MOTHER~~ WHEN REFERRING TO A HUMAN; PROVIDING THAT THE DEFINITION OF SEX REFERS TO BIOLOGICAL SEX AND NOT GENDER IDENTITY OR SEXUAL INTERCOURSE; PROVIDING THAT THE DEFINITION OF SEX IS LIMITED TO TWO TYPES OF SEXES WHICH ARE REFERRED TO AS MALE AND FEMALE; PROVIDING THAT THE DEFINITIONS OF MALE, ~~AND FEMALE, MAN, WOMAN, FATHER, AND MOTHER~~ REFER TO BIOLOGICAL SEX AND NOT SUBJECTIVE GENDER IDENTITY; CLARIFYING THE MEANING OF THE TERM "GENDER"; ~~PROVIDING FOR EXCEPTIONS;~~ AMENDING SECTIONS 2-18-208, ~~2-18-606~~, 7-15-4207, 7-34-2123, ~~10-2-403~~, 13-27-408, 13-35-301, 13-38-201, ~~13-38-203~~, 13-38-205, 19-2-802, ~~20-6-808~~, ~~20-7-1306~~, 20-7-1703, 20-9-327, ~~20-11-116~~, 20-25-501, 20-25-707, 22-2-306, ~~23-2-505~~, 33-1-201, 35-20-209, 39-2-912, ~~39-29-101~~, ~~39-71-401~~, 40-1-107, ~~40-1-311~~, 40-1-401, ~~40-5-804~~, 40-5-907, 40-5-1031, 40-6-701, 40-6-703, ~~41-3-210~~, 41-5-103, 42-2-204, ~~44-2-411~~, ~~44-2-412~~, 45-5-625, ~~46-18-101~~, 46-19-301, 46-19-401, 49-1-102, 49-2-101, 49-3-101, ~~50-4-720~~, 50-5-105, 50-5-602, 50-11-101, 50-15-101, 50-19-103, ~~50-19-501~~, 50-60-214, 53-20-142, 53-21-121, 53-21-142, 53-24-310, ~~53-30-312~~, 60-5-514, 60-5-522, 61-5-107, 72-1-103, ~~72-17-106~~, ~~AND 90-14-104~~, MCA; REPEALING SECTION 1-1-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, IN HUMAN BEINGS, THERE ARE TWO -- AND ONLY TWO -- SEXES: MALE AND FEMALE, WHICH REFER TO THE TWO BODY STRUCTURES (PHENOTYPES) THAT, IN NORMAL DEVELOPMENT, CORRESPOND TO ONE OR THE OTHER GAMETE -- SPERM FOR MALES AND OVA FOR FEMALES; AND

WHEREAS, EVERY INDIVIDUAL IS EITHER MALE OR FEMALE; AND

WHEREAS, AN INDIVIDUAL'S SEX CAN BE OBSERVED OR CLINICALLY VERIFIED AT OR BEFORE BIRTH; AND

WHEREAS, RARE DISORDERS OF SEXUAL DEVELOPMENT ARE NOT EXCEPTIONS TO THE BINARY NATURE OF SEX; AND

WHEREAS, IN NO CASE IS AN INDIVIDUAL'S SEX DETERMINED BY STIPULATION OR SELF-IDENTIFICATION; AND

parental leave policy for permanent state employees. The policy must permit an employee to take a reasonable leave of absence and permit the employee to use sick leave immediately following the birth or placement of a child for a period not to exceed 15 working days if:

(a) the employee is adopting a child; or

(b) the employee is a birth father, as defined in [section 1].

(2) As used in this section, "placement" means placement for adoption as defined in 33-22-130.

(3) A state agency that is not subject to the provisions of the Family and Medical Leave Act of 1993, 29 U.S.C. 2601 through 2654, may extend the provisions of that act to the employees of the agency."

Section 4. Section 7-15-4207, MCA, is amended to read:

"7-15-4207. Prohibition against discrimination. For all of the purposes of this part and part 43, a person may not be subjected to discrimination because of sex, as defined in ~~4-1-204~~ [section 1], race, creed, religion, age, physical or mental disability, color, or national origin."

Section 5. Section 7-34-2123, MCA, is amended to read:

"7-34-2123. Admission to district hospital facilities. Such a hospital district must admit persons to its facilities without regard to race, color, ~~or~~ sex, as defined in ~~4-1-204~~ [section 1], sexual orientation, sexual identity, or sexual expression. Such obligation shall not prevent the board of trustees of such hospital district from establishing reasonable minimum rates for hospital quarters, services, and supplies. Indigents needing such services, for the rendition of which provision is made by the laws of Montana, must be admitted to such public hospitals on terms and rates prescribed or authorized by law."

SECTION 6. SECTION 10-2-403, MCA, IS AMENDED TO READ:

"10-2-403. Eligibility for residence in home. To be eligible for residence in a Montana veterans' home under rules prescribed by the department of public health and human services, a person must be a veteran or the spouse or surviving spouse of a veteran. Consideration must also be given to:

(1) the person's age;

(2) the person's physical and mental status;

(4) The attorney general shall retain oversight and monitoring authority over the foundation or nonprofit organization that receives the proceeds of a proposed conversion transaction.

(5) Notwithstanding any other provision of this section, the proceeds of a conversion transaction that are public assets of a nonprofit mutual benefit corporation in which all of the members are nonprofit public benefit corporations may be distributed to the member nonprofit public benefit corporations if the articles of incorporation of the nonprofit mutual benefit corporation provide for that distribution."

Section 48. Section 50-5-105, MCA, is amended to read:

"50-5-105. Discrimination prohibited. (1) All phases of the operation of a health care facility must be without discrimination against anyone on the basis of race, creed, religion, color, national origin, sex, as defined in ~~4-1-204~~ [section 1], sexual orientation, sexual identity, sexual expression, age, marital status, physical or mental disability, or political ideas.

(2) (a) A health care facility may not refuse to admit a person to the facility solely because the person has an HIV-related condition.

(b) For the purposes of this subsection (2), the following definitions apply:

(i) "HIV" means the human immunodeficiency virus identified as the causative agent of acquired immunodeficiency syndrome (AIDS) and includes all HIV and HIV-related viruses that damage the cellular branch of the human immune or neurological system and leave the infected person immunodeficient or neurologically impaired.

(ii) "HIV-related condition" means any medical condition resulting from an HIV infection, including but not limited to seropositivity for HIV.

(3) A person who operates a facility may not discriminate among the patients of licensed physicians. The free and confidential professional relationship between a licensed physician and patient must continue and remain unaffected.

(4) Except for a hospital that employs its medical staff, a hospital considering an application for staff membership or granting privileges within the scope of the applicant's license may not deny the application or privileges because the applicant is licensed under Title 37, chapter 6."