



The Bell Policy Center

Research • Advocacy • Opportunity

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March 1, 2010

The Honorable Clair Levy
Chair, House Judiciary Committee
State Capitol
Denver, Colorado 80203

Dear Representative Levy:

I am writing to express the support of the Bell Policy Center for H.B. 10-1269, "Concerning the creation of remedies available in employment discrimination cases." This legislation will expand remedies available under Colorado's anti-discrimination laws and protect more Coloradans from discrimination and harassment in the workplace.

Colorado's current anti-discrimination laws prohibit discrimination in the workplace based on age, race, disability, gender, sexual orientation, religion, creed, national origin, or ancestry. Employees who prevail in discrimination cases can obtain front pay, back pay, interest on back pay, reinstatement, or other equitable relief.

Employees are also protected from workplace discrimination under federal law. It covers the same factors as state law, except for sexual orientation, and provides the same remedies. In addition, employees who successfully prove discrimination under federal law can be awarded compensatory and punitive damages as well as attorney and court fees. However, federal law only applies to employers with 15 or more employees.

Employees who feel they have been discriminated against can file a claim under state law or federal law. Because federal law provides for compensatory and punitive damages as well as attorney and court fees, employees are more likely to find attorneys willing to take their cases. However, if they work for employers with less than 14 employees or allege discrimination based on sexual orientation, their only recourse is to file their case under state law. Because state law does not provide the same level of remedy it is more difficult for employees to find attorneys willing to take their cases.

H.B. 10-1269 would authorize that compensatory and punitive damages as well as attorney fees and court costs be awarded to employees who successfully proved workplace discrimination in state court. This has the effect of extending the provisions currently provided under federal law to employers with 14 or less employees.

Forty-one states and the District of Columbia currently provide compensatory and punitive damages and/or attorney fees to those employees who prove discrimination. Of those states, 29 and the District of Columbia do not cap compensatory and punitive damages.

During Colorado's 2009 legislative session, the Plaintiff Employment Lawyers Association testified in favor of a similar bill, stating that many workers of small employers have difficulty finding representation. Affording Coloradans who feel they have been discriminated against the possibility of obtaining attorneys fees increases their chances of securing legal counsel and taking action.

Discrimination in the workplace is not only costly for employees, but employers as well. Losing and replacing managers and professionals who leave their jobs because of unfairness and discrimination in the workplace costs roughly \$64 billion a year nationwide.

House Bill 10-1269 will promote fair and equal treatment for all Coloradans working for employers of every size. More people will be able to seek legal remedies and take action against discrimination in the workplace.

Thank you for your work on this issue.

Sincerely,

A handwritten signature in black ink that reads "Wade Buchanan". The signature is written in a cursive style with a long horizontal flourish at the end.

Wade Buchanan

President

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