

SENATE BILL 2738

By Bell

AN ACT to amend Tennessee Code Annotated, Title 4;  
Section 8-50-103 and Section 68-1-113, relative to  
human rights.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 21, Part 2, is amended by deleting the part and substituting instead the following:

**4-21-201.**

(a) There is created a human rights division in the office of the attorney general and reporter, to consist of an executive director, attorneys, support personnel, and other personnel as determined by the attorney general and reporter to be appropriate and necessary to accomplish the purposes of this part. The attorney general and reporter may request the general assembly to increase or eliminate positions within the division, as part of the annual appropriations process. The attorney general and reporter has discretion to determine where the division's offices are located.

(b) All human rights commission procedures, reports, functions, duties, and records, including, but not limited to, all of the commission's case files, must be transferred to the human rights division in the office of the attorney general and reporter.

(c) The division shall send written notice to all persons who have filed a complaint with the commission that is or may be subject to further action.

(1) The notice must acknowledge that:

(A) The commission ceases to exist and all its duties are transferred to the human rights division; and

(B) The division now manages the person's case.

(2) The notice must provide the division's contact information.

**4-21-202.** In the enforcement of this chapter, the division has the power and duty to:

(1) Exercise its powers within this state;

(2) Assist, as necessary, state; local; and other entities, both public and private; and individuals, and to obtain upon request and utilize the services of all governmental entities;

(3) Cooperate with the federal equal employment opportunity commission created under § 705 of the Civil Rights Act of 1964 (42 U.S.C. § 2000e-4), and with the department of housing and urban development in enforcing the Fair Housing Act of 1968 (42 U.S.C. § 3601 et seq.), to achieve the purposes of those acts, and with other federal and local agencies to achieve the purposes of this chapter;

(4) Accept reimbursement pursuant to § 709(b) of the Civil Rights Act of 1964 (42 U.S.C. § 2000e-8), and pursuant to § 816 of the Fair Housing Act of 1968 (42 U.S.C. § 3616), for services rendered to assist the federal equal employment opportunity commission and the department of housing and urban development;

(5) Receive, initiate, investigate, seek to conciliate, and hold hearings regarding complaints alleging violations of this chapter;

(6) Require answers to interrogatories, compel the attendance of witnesses, examine witnesses under oath or affirmation in person by deposition, require the production of documents relevant to the complaint, and initiate any other form of relevant discovery. The division may make rules authorizing or designating an individual to exercise these powers in the performance of official duties;

(7) Furnish technical assistance requested by persons subject to this chapter to further compliance with this chapter or an order issued under this chapter;

(8) Make studies to effectuate the purpose of this chapter and make the results of the studies available to the public;

(9) Render any written reports as required by this chapter in accordance with the rules, regulations, policies, and procedures of the state publications committee;

(10) Promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to implement the provisions of this chapter;

(11) Cooperate with applicable organizations, as necessary, along with federal agencies and agencies of other states, in the development of public information programs, leadership, and activities to ensure equal opportunity and treatment of all persons;

(12)

(A) Create local or statewide advisory agencies that, in the division's judgment, will aid in effectuating the purposes of this chapter. The division may empower these agencies to:

(i) Study and report on problems of discrimination based on race, creed, color, religion, sex, age, or national origin;

(ii) Foster goodwill among diverse segments of society; and

(iii) Make recommendations to the division for the development of policies and practices that will aid in carrying out the purposes of this chapter; and

(B) Require members of the advisory agencies to serve without pay, but to reimburse members for expenses incurred for services rendered in furtherance of agency duties. The division may provide for technical and clerical assistance to the advisory agencies; and

(13) Conduct tests of housing accommodations and availability through the use of staff, both full time and part time, and of volunteers to ascertain the availability of housing, both in sales and in rentals of real property.

**4-21-203.**

(a) The division shall verify that all state governmental entities comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) and federal rules, regulations, and orders promulgated pursuant to Title VI.

(b) The division, pursuant to subsection (c), shall develop a Title VI implementation plan for state governmental entities subject to the requirements of Title VI. The plan must include the Title VI implementation plan for any subrecipient of federal funds through a state entity. Each state governmental entity shall submit an annual Title VI compliance report and any implementation plan updates to the division by October 1, 2020, and each October 1 thereafter. The reporting period must cover the most recent full fiscal year. At least once each year, the division shall publish a cumulative report of the reports submitted by the state governmental entities and the division's recommendations concerning compliance with the requirements of this section. The cumulative annual report must be distributed to the governor, to each member of the general assembly, and to each library designated as a depository of state reports and documents.

(c) The division shall:

(1) Periodically review current Title VI monitoring and enforcement procedures in federal and state statutes, rules, regulations, programs, services, and budgetary priorities;

(2) Define and establish the components, guidelines, and objectives of a comprehensive state policy to ensure and to promote present and future compliance with Title VI requirements;

(3) Identify any state laws, rules, programs, services, and budgetary priorities that conflict with the components, guidelines, and objectives of the comprehensive state policy;

(4) Search for any interdepartmental gaps, inconsistencies, and inefficiencies in the implementation of the comprehensive state policy;

(5) Identify any new laws, rules, programs, services, and budgetary priorities that are needed to ensure and promote present and future compliance with and enforcement of Title VI;

(6) Serve as the central coordinating agency for executive branch departments and agencies for technical assistance, consultation, and resources to assist compliance with the requirements of Title VI;

(7) Periodically and systematically audit, review, evaluate, and report on Title VI compliance efforts and outcomes for each executive branch department and agency;

(8) Conduct research, hold public hearings, publish reports, and engage in other activities to inform citizens of this state of the provisions and requirements of Title VI;

(9) Investigate allegations of noncompliance with Title VI;

(10) Report annually to the governor and the general assembly concerning the division's activities, findings, and recommendations the division may have to improve the implementation of this chapter; and

(11) Engage in other activities to encourage, promote, and assist in compliance with the requirements of Title VI.

(d) The division shall provide ongoing training, education, and technical assistance to employees of each state department, subject to appropriations in the

general appropriations act. The diversity training includes, but is not limited to, health and social services, road maintenance and building, employment issues, housing and related issues, education and education-related issues, and administrative and administrative support functions. Subject to appropriations in the general appropriations act, diversity training is extended to provide training to subrecipients of federal funds through the general appropriations act, including local governments, nonprofit organizations, and private businesses.

SECTION 2. Tennessee Code Annotated, Section 4-3-1416, is amended by deleting "state human rights commission" and "human rights commission" and substituting instead "human rights division in the office of the attorney general and reporter".

SECTION 3. Tennessee Code Annotated, Section 4-21-102, is amended by deleting subdivisions (1), (2), and (10) and inserting the following appropriately designated subdivisions:

( ) "Division" means the human rights division in the office of the attorney general and reporter;

( ) "Executive director" means the executive director of the human rights division;

( ) "Hearing examiner" means a person designated by the division to conduct a hearing. The division has the sole power to determine qualifications of the hearing examiner;

SECTION 4. Tennessee Code Annotated, Section 4-21-301(a)(2), is amended by deleting the subdivision and substituting instead the following:

Willfully interfere with the performance of a duty or the exercise of a power by the division or one (1) of its employees;

SECTION 5. Tennessee Code Annotated, Section 4-21-302(a), is amended by deleting the subsection and substituting instead the following:

(a) A person claiming to be aggrieved by a discriminatory practice, or an employee of the division, may file with the division a written sworn complaint stating that a discriminatory practice has been committed, setting forth the facts sufficient to enable the division to identify the persons charged, referred to in this part as the respondent. Within ten (10) days after receipt of the complaint, the division shall serve on the complainant a notice acknowledging the filing of the complaint and informing the complainant of the respondent's time limits and choice of forums under this chapter.

SECTION 6. Tennessee Code Annotated, Section 4-21-302, is amended by deleting "commission" in subsections (b), (d) and (e) and substituting instead "division".

SECTION 7. Tennessee Code Annotated, Section 4-21-303, is amended by deleting "commission" in subsections (b) – (f) and substituting instead "division".

SECTION 8. Tennessee Code Annotated, Section 4-21-303(a), is amended by deleting "commission" wherever it appears and substituting instead "division" and by deleting "or its delegate".

SECTION 9. Tennessee Code Annotated, Section 4-21-303(g), is amended by deleting the subsection and substituting instead the following:

At any time after a complaint is filed, the division may file an action in the chancery court or circuit court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or has the respondent's principal place of business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this chapter, including an order or decree restraining such respondent from doing or procuring any act tending to render ineffectual any order the division may enter with respect to the complaint. The court has the power to grant such temporary relief or restraining order as it deems just and proper.

SECTION 10. Tennessee Code Annotated, Section 4-21-304, is amended by deleting "commission" in subsections (a), (c), (e), (f), and (h) and substituting instead "division".

SECTION 11. Tennessee Code Annotated, Section 4-21-304(b), is amended by deleting the subsection and substituting instead the following:

An employee of the division who filed the complaint or endeavored to eliminate the alleged discriminatory practice by conference, conciliation, or persuasion shall not participate in the hearing or in the subsequent deliberation of the division.

SECTION 12. Tennessee Code Annotated, Section 4-21-305, is amended by deleting "commission" wherever it appears and substituting instead "division".

SECTION 13. Tennessee Code Annotated, Section 4-21-306, is amended by deleting "commission" wherever it appears and substituting instead "division".

SECTION 14. Tennessee Code Annotated, Section 4-21-307, is amended by deleting "commission" in subsections (b), (d), and (f) and substituting instead "division".

SECTION 15. Tennessee Code Annotated, Section 4-21-307(a), is amended by deleting the subsection and substituting instead the following:

A complainant, respondent, or intervenor aggrieved by an order of the division, including an order dismissing a complaint or stating the terms of a conciliation agreement, may obtain judicial review, and the division may obtain an order of the court for enforcement of its order, in a proceeding brought in a chancery court or circuit court that is in the county in which the alleged discriminatory practice that is the subject of the order occurred, in which a respondent resides, or in which the respondent's principal place of business is located.

SECTION 16. Tennessee Code Annotated, Section 4-21-307(c), is amended by deleting the subsection and substituting instead the following:



If the division has failed to schedule a hearing in accordance with § 4-21-304 or has failed to issue an order within one hundred eighty (180) days after the complaint is filed, the complainant, respondent, or an intervenor may petition the chancery court or circuit court in the county in which the alleged discriminatory practice set forth in the complaint occurred, in which the petitioner resides, or in which the petitioner's principal place of business is located for an order directing the division to take such action. The court shall follow the procedure set forth in subsection (b) so far as applicable.

SECTION 17. Tennessee Code Annotated, Section 4-21-308, is amended by deleting "commission" wherever it appears and substituting instead "division".

SECTION 18. Tennessee Code Annotated, Section 4-21-309, is amended by deleting "commission" wherever it appears and substituting instead "division".

SECTION 19. Tennessee Code Annotated, Section 4-21-310, is amended by deleting the section and substituting instead the following:

A person who willfully resists, prevents, impedes, or interferes with the performance of a duty or the exercise of a power by the division commits a Class C misdemeanor.

SECTION 20. Tennessee Code Annotated, Section 4-21-311, is amended by deleting "commission" and substituting instead "division".

SECTION 21. Tennessee Code Annotated, Section 4-21-312, is amended by deleting "commission" wherever it appears and substituting instead "division".

SECTION 22. Tennessee Code Annotated, Section 4-21-406(b), is amended by deleting "commission" wherever it appears and substituting instead "division".

SECTION 23. Tennessee Code Annotated, Section 4-21-503, is amended by deleting "commission" and substituting instead "division".

SECTION 24. Tennessee Code Annotated, Section 4-21-607, is amended by deleting the section and substituting instead the following:

If a real estate broker or a real estate salesperson has failed to comply with an order issued by the division or has been found to have committed a discriminatory housing practice in violation of § 4-21-601 or § 4-21-603, then the division shall notify in writing the real estate commission of the failure to comply or the violation.

SECTION 25. Tennessee Code Annotated, Section 4-21-901, is amended by deleting "human rights commission" and substituting instead "human rights division in the office of the attorney general and reporter".

SECTION 26. Tennessee Code Annotated, Section 4-21-905, is amended by deleting the section and substituting instead the following:

(a) Any person claiming to be aggrieved by a discriminatory practice under this part may file a complaint with the state department, agency, or entity receiving the funds within one hundred eighty (180) days of the occurrence of the alleged discriminatory act. Any such complaint filed with a state department, agency, or entity is subject to review by the human rights division in the office of the attorney general and reporter for applicability under Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq).

(b) Any person claiming to be aggrieved by a discriminatory practice under this part may also file a complaint with the division, in the same manner established in § 4-21-302, for other discriminatory practices. If a complaint is filed with the division, then the division shall exercise the same powers and shall observe the same procedures as provided in part 3 of this chapter.

SECTION 27. Tennessee Code Annotated, Section 8-50-103(c), is amended by deleting the subsection and substituting instead the following:

(1) Any person claiming to be aggrieved by a discriminatory practice prohibited by this section may file with the human rights division in the office of the attorney general and reporter a written sworn complaint stating that a discriminatory practice has been committed, setting forth the facts sufficient to enable the division to identify the persons charged.

(2) If a complaint is filed with the division, then the division shall follow the same procedure and exercise the powers and duties as provided in §§ 4-21-302 — 4-21-311. A person who files a complaint with the division has the same rights as provided in §§ 4-21-302 — 4-21-311.

SECTION 28. Tennessee Code Annotated, Section 68-1-113(a)(4), is amended by deleting "Tennessee human rights commission" and substituting instead "human rights division in the office of the attorney general and reporter".

SECTION 29. Tennessee Code Annotated, Section 4-29-243(a), is amended by inserting the following as a new subdivision:

Human rights division in the office of the attorney general and reporter, created by § 4-21-201;

SECTION 30. Tennessee Code Annotated, Section 4-29-241, is amended by deleting subdivision (a)(26) and inserting the following as a new subsection:

(d) Notwithstanding § 4-29-112, the human rights commission, created in § 4-21-201, terminates and ceases to exist on June 30, 2020.

SECTION 31. This act shall take effect June 30, 2020, the public welfare requiring it.