

1 H.298

2 Introduced by Representative Troiano of Stannard

3 Referred to Committee on

4 Date:

5 Subject: Labor; executive; employment practices; voting leave; good cause

6 termination of employment; employee speech; job status inquiries;

7 collective bargaining; unfair labor practices

8 Statement of purpose of bill as introduced: This bill proposes to provide two

9 hours of paid leave so that employees may vote in primary and general

10 elections and on Town Meeting Day. The bill also proposes to establish a

11 good cause standard for termination of employment, to prohibit employers

12 from taking adverse actions against an employee because of the employee's

13 exercise of free speech rights, and to prohibit employers from inquiring about

14 employment status on a job application or interfering with an employee's

15 efforts to seek employment with another employer. This bill further proposes

16 to make interference with an employee's efforts to seek employment with

17 another employer an unfair labor practice for public employers.

18 An act relating to miscellaneous employee rights and protections

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 * * * Voting Leave * * *

3 Sec. 1. 21 V.S.A. § 472d is added to read:

4 § 472d. VOTING LEAVE

5 (a)(1) Upon request of an employee, an employer shall provide the
6 employee with at least two consecutive hours of paid leave from employment
7 on the day on which a primary or general election is held in the jurisdiction in
8 which the employee is eligible to vote and, if the employee is a resident of
9 Vermont, on Town Meeting Day, provided that the employee would have been
10 scheduled to work during the time for which the leave is requested.

11 (2) An employer may:

12 (A) require that an employee request the leave a reasonable time in
13 advance; and

14 (B) specify the hours during which the employee may take leave
15 pursuant to this section, including by requiring that the leave be taken:

16 (i) during a period designated for early voting instead of on the
17 day of the election; or

18 (ii) at the beginning or end of the employee's scheduled work
19 hours.

1 (b) Leave taken pursuant to the provisions of this section shall be
2 compensated at the greater of the employee's normal hourly wage rate or the
3 minimum wage rate established pursuant to section 384 of this title.

4 (c) An employer shall not:

5 (1) deduct from an employee's salary, wages, or accrued paid leave for
6 leave taken pursuant to this section;

7 (2) interfere with or restrain an employee's exercise or attempt to
8 exercise the rights provided pursuant to this section; or

9 (3) retaliate against an employee for exercising or attempting to exercise
10 the rights provided pursuant to this section.

11 (d) An employer shall post notice of the provisions of this section in a form
12 provided by the Commissioner of Labor in a conspicuous place in each of its
13 places of business.

14 (e) Nothing in this section shall be construed to diminish the rights
15 provided pursuant to section 472b of this title.

16 Sec. 2. 21 V.S.A. § 472b is amended to read:

17 § 472b. TOWN MEETING LEAVE; EMPLOYEES; STUDENTS

18 (a)(1) Subject In addition to the paid leave provided pursuant to section
19 472d of this subchapter and subject to the essential operation of a business or
20 entity of State or local government the employer, which shall prevail in any
21 instance of conflict, an employee shall have the right to take unpaid leave from

1 employment under this section ~~or subsection 472(b) of this title~~ for the purpose
2 of attending ~~his or her~~ the employee's annual town meeting, provided the
3 employee notifies the employer at least seven days prior to the date of the town
4 meeting.

5 (2) During the leave provided pursuant to this section, at the employee's
6 option, the employee may use accrued personal leave, annual leave, vacation
7 leave, or any similar form of accrued paid leave. Utilization of accrued paid
8 leave shall not extend the leave provided pursuant to this section.

9 * * *

10 * * * Good Cause Required for Termination * * *

11 Sec. 3. 21 V.S.A. § 495 is amended to read:

12 § 495. UNLAWFUL EMPLOYMENT PRACTICE

13 * * *

14 (b)(1) It shall be an unlawful employment practice for an employer to
15 discharge an employee for other than good cause shown. As used in this
16 subdivision, "good cause" means either a reasonable, good-faith reason for
17 discharge related to a legitimate business reason or that the employee has been
18 employed by the employer for fewer than 90 days. "Good cause" does not
19 include reasons for discharge that are trivial, arbitrary, capricious, or otherwise
20 unrelated to a legitimate business reason. A "legitimate business reason"
21 includes the employee's failure to satisfactorily perform job duties.

1 (2) The provisions of this section shall not be construed to limit:

2 (A) the rights of employers to discharge employees for good cause
3 shown; or

4 (B) any other rights of employees provided pursuant to law or in a
5 contract or collective bargaining agreement.

6 (3) An employer shall post notice of the provisions of this subsection in
7 a form provided by the Commissioner in a place conspicuous to employees at
8 the employer’s place of business.

9 * * *

10 * * * Employee Freedom of Expression * * *

11 Sec. 4. 21 V.S.A. § 495o is added to read:

12 § 495o. EMPLOYEE FREEDOM OF EXPRESSION; RIGHTS;

13 EXCEPTIONS

14 (a) Except as otherwise provided in subsections (b) and (c) of this section,
15 an employer shall not discriminate against, discipline, discharge, or threaten to
16 discipline or discharge an employee for any of the following reasons:

17 (1) the employee’s exercise of a right guaranteed by the First
18 Amendment of the U.S. Constitution or Chapter I, Articles 3, 13, or 20 of the
19 Vermont Constitution, provided that the employee’s exercise of that right does
20 not substantially or materially interfere with the employee’s job performance
21 or the working relationship between the employee and the employer;

1 (2) the employee’s refusal to attend an employer-sponsored meeting that
2 has the primary purpose of communicating the employer’s opinion regarding a
3 religious matter or a political matter, regardless of whether the meeting is with
4 the employer or an agent, representative, or designee of the employer; or

5 (3) the employee’s refusal to listen to speech or view communications
6 whose primary purpose is to communicate the employer’s opinion concerning
7 a religious matter or a political matter.

8 (b) Nothing in this section shall be construed to prohibit:

9 (1) an employer or the employer’s agent from communicating
10 information to an employee:

11 (A) that the employer is required to communicate pursuant to State or
12 federal law; or

13 (B) that is necessary for the employee to perform the employee’s job
14 functions or duties;

15 (2) an institution of higher education or an agent of an institution of
16 higher education from communicating with an employee regarding an
17 academic program, symposium, or course at the institution; or

18 (3) casual conversations between employees or between an employee
19 and the employer or the employer’s agent, provided that the employee is not
20 required to participate in the conversation.

1 (c) Nothing in this section shall be construed to prohibit an employer that is
2 a religious or denominational institution or organization, or any organization
3 operated for charitable or educational purposes, that is operated, supervised, or
4 controlled by or in connection with a religious organization, from
5 communicating with its employees regarding the employer’s opinion on
6 religious matters or from requiring the employees to listen to or view
7 communications from the employer or the employer’s agent regarding the
8 employer’s opinion on religious matters.

9 (d)(1) The penalty and enforcement provisions of section 495b of this
10 subchapter shall apply to this section.

11 (2) The provisions against retaliation in subdivision 495(a)(8) of this
12 subchapter shall apply to this section.

13 (e) As used in this section:

14 (1) “Political matters” means matters relating to elections for political
15 office, political parties, legislative proposals, proposals to change rules or
16 regulations, and the decision to join or support any political party or political,
17 civic, community, fraternal, or labor organization.

18 (2) “Religious matters” means matters relating to religious affiliation
19 and practice and the decision to join or support any religious or denominational
20 organization or institution.

1 * * * Protections Related to Job Applications and Transitions * * *

2 Sec. 5. 21 V.S.A. § 495p is added to read:

3 § 495p. EMPLOYMENT STATUS; APPLICATIONS; INTERFERENCE

4 (a) An employer shall not request or require information about an
5 individual's current employment status on its initial employment application
6 form. An employer may inquire about an individual's employment status once
7 the prospective employee has been deemed otherwise qualified for the
8 position.

9 (b)(1) An employer shall not interfere with the ability of an employee to
10 apply for or accept employment with another employer.

11 (2) Nothing in this subsection shall be construed to prevent an employer
12 from providing, upon request, information to an employee's prospective
13 employer about the employee's job performance, competencies, and general
14 ability to perform work.

15 (c) An employer who violates the provisions of this section shall be
16 assessed a civil penalty of not more than \$100.00 for each violation.

17 Sec. 6. 3 V.S.A. § 961 is amended to read:

18 § 961. EMPLOYERS

19 It shall be an unfair labor practice for an employer:

20 * * *

1 (8) to discriminate against an applicant, prospective employee, or
2 employee on the basis of a person's having a positive test result from an HIV-
3 related blood test; or

4 (9) to interfere with an employee's right to apply for or accept
5 employment with another employer.

6 Sec. 7. 3 V.S.A. § 1026 is amended to read:

7 § 1026. EMPLOYERS

8 It shall be an unfair labor practice for an employer:

9 * * *

10 (8) to discriminate against an applicant, prospective employee, or
11 employee on the basis of a person's having a positive test result from an HIV-
12 related blood test; or

13 (9) to interfere with an employee's right to apply for or accept
14 employment with another employer.

15 Sec. 8. 21 V.S.A. § 1726 is amended to read:

16 § 1726. UNFAIR LABOR PRACTICES

17 (a) It shall be an unfair labor practice for an employer:

18 * * *

19 (9) To interfere with an employee's right to apply for or accept
20 employment with another employer.

21 * * *

1 Sec. 9. EFFECTIVE DATE

2 This act shall take effect on July 1, 2023.